

IMPERIALIST STRATEGY
AND MODERATE POLITICS

Indian Legislature at Work
1909-1920

By the Same Author
EUROPE KA ITIHAS

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Preface

India's freedom from imperial subjection led to the emergence of world's largest democracy besides one of the largest Muslim states in India. Yet scholars have not paid adequate attention to the legislative bodies in which Indians got their first experiences of electoral politics and legislative work.¹ The Morley-Minto scheme of constitutional reforms has been a particular victim of this neglect on the part of historians. Though many studies have appeared on the prolonged negotiations, consultations and deliberations that preceded the passing of the Indian Councils Act of 1909 which formed the predominant part of this scheme,² not a single detailed study has appeared on the working of these reform proposals. In view of the representation of all leading moderate leaders, both Hindu and Muslim (also Parsee) in the Central Legislature and the introduction of separate electorates and weightage for Muslims, a study of its inside working is of great importance in any delineation of the national movement and in any study of the evolution of parliamentary institutions in India.

¹For the last one decade the Indian Council of Historical Research has undertaken the commendable task of preparing and publishing monographs on the roles of legislatures in various states and has so far published: M. Jha, *Role of the Central Legislature in the Freedom Struggle* (New Delhi, 1972); A.K. Gupta, *North West Frontier Province Legislature and Freedom Struggle, 1932-47* (New Delhi, 1976); A. Guha, *Planter Raj to Swaraj, Freedom Struggle and Electoral Politics in Assam, 1826-1947*. (New Delhi, 1977); K.M. Patra, *Orissa State Legislature and Freedom Struggle, 1912-1947* (New Delhi, 1979).

²M.N. Das, *India under Morley and Minto* (London, 1964); S.R. Wasti, *Lord Minto and Indian National Movement* (Oxford, 1964); S.A. Wolpert, *Morley and India, 1906-1910* (California, 1967) S.E. Koss, *John Morley at the India Office, 1905-1910* (Yale, 1969).

The present study focusses on the inside working of the Indian Legislature created under the reform scheme associated with the names of Morley and Minto. In recent years the direction of historical research on modern Indian history has been diverted to developments at provincial and local levels. The events and trends at the all India level are, however, as much a valid subject of inquiry as any other provided, these are not looked upon as sum total of developments everywhere.

The use of the word 'Legislature' in the title also calls for a word of explanation. Statutorily this body was referred to as 'The Imperial Legislative Council'. But in official and non-official parlance, the word 'Legislature' was often used. In fact in the early drafts of the 'Bill to consolidate Statutes relating to the Government of India' introduced in the British Parliament in 1914, the words 'Imperial Legislature' and 'Local Legislature' were used. ✓

The role performed by any legislative body can be studied analytically only by relating it to the political system of which it is a part. In a colonial context, its composition and functions became integrally related to the perceptions and priorities of the rulers. The Central Legislature created under the Morley-Minto scheme of constitutional reforms was designed as an adjustment in the imperial strategy of perpetuating the Empire by winning over those influential sections of society which continued to have faith in the sense of justice of their rulers and were ready to co-operate with them.

In this book an attempt has been made to study legislative behaviour in this particular institutional and political context. It studies, for example, the events inside the legislature, the questions taken up by various individuals, the extent to which the non-official members coalesced together in spite of communal representation, the extent to which they collaborated with the Government, their possible effect on public opinion outside, and the relevance of their work in the context of anti-imperialist struggle.

I have drawn upon a mass of unpublished materials. Fortunately private correspondence of many members, both Indian and British, is available besides the private papers of the Secretary of State and Governor General of this period. The bibliography at the end of the book includes mention of unpublished records and newspapers to the owners and donors of which I acknowledge my debt. I also thank the staff members

of the National Archives of India, the Nehru Memorial Library and Archives and Indraprastha College Library, where most of the work was done, for their unfailing courtesy and co-operation. I am grateful to the British Council for enabling me to travel to U.K. for a course where I was able to steal some time to work at the India Office Library and the Cambridge University Library. I also wish to thank Indraprastha College for giving me study leave for one year which enabled me to devote undivided attention to the subject.

This study originated as a Delhi University doctoral dissertation. Prof. B.B. Misra supervised my research and I am indebted to him for constructive criticism and constant encouragement. I have profited greatly from many conversations I had with Prof. Bipan Chandra, Dr. D.N. Panigrahi and Sri B.R. Nanda, to all of whom I offer my sincere thanks. I am also grateful to Indira Gupta for reading through the entire manuscript and making useful suggestions. I must also thank Veena Arora and my father, Sri M.P. Garga for extending much needed support in the years when the book was in preparation.

My husband's contribution is impossible to calculate. He graciously shared the early years of our married life with this project which holds many fond memories for both of us, and to these, I dedicate this book.

New Delhi
8 January 1983

Sneh Mahajan

For
RAJINDER

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Chapter I

Introduction

In 1907 Sanderson, the permanent Under Secretary of State at the Foreign Office, described the British Empire as a 'huge giant sprawling over the globe with gouty fingers and toes outstretched in every direction which cannot be reached without soliciting a scream'¹ Few would have denied that the heart of this giant was in India. As a useful supplier of raw material, a customer of British manufactures, a field for the investment of surplus capital, a crucial element in the network of her balance of payments, an 'English barrack in the Oriental Seas' on which the mother country did not have to spend a pie and, last but not the least, an indispensable pillar of Britain's great power status in the European balance of power, control over India was of crucial importance. During the decades preceding the First World War which marked the heyday of imperialism, the idea of relinquishing this control appeared only in its remoteness. During this period the domination of one state by another acquired powerful economic, social, political and psychological sanctions. In India too, in order to justify their rule, the rulers had built up an elaborate rationale extending from the biological principles of the survival of the fittest associated with Charles Darwin and

¹*British Documents on the Origins of the War, 1898-1914*, v. 3, App. B.

Herbert Spencer to the incapacities of the 'peoples' inhabiting India

Towards the end of the nineteenth century when a section of Indians began to question the right of the foreign people to govern, the British began to give thought to evolving the most effective, but sophisticated and inexpensive, means of perpetuating their hold. A variety of opinions emerged which fell broadly into two categories. One group, that included men like A O Hume, Ripon, William Wedderburn, George Yule and Henry Cotton, believed that the Raj could accommodate the educated Indians within the imperialist structure as well as be provided with constructive purposes by giving direction to the aspirations of educated elite accommodating them within the colonial framework by widening the membership of legislative and local bodies, giving them employment in public services and by providing associations for political purposes. Liberal sympathies of these men gave hope to Indian intellectuals who believed in liberal secular ideas and sustained their conviction that under the protective umbrella of the Raj they would be able to march on the road to self-government.

A majority of British policy makers, however, viewed the aspirations of these Indians with scorn and prescribed heavy doses of centralization and authoritarianism. They frequently warned their colleagues of the dangers of introducing into India institutions of government evolved in Western countries and of their possible misuse by the elite groups. They looked upon the creation of legislative bodies and political institutions or introduction of election as instruments of increasing the acceptability of their rule and as consultative aids to the bureaucracy. The liberals and diehards both agreed about two basic premises—that British empire would continue for a considerable period and that Western representative institutions were unsuited to eastern societies.

The Partition of Bengal in 1905 was the most eloquent demonstration of the antipathy of the imperialist rulers to political aspirations and convictions of the Western educated elite. Their unpreparedness for the outburst which followed it showed how thoroughly they misconstrued the social and political forces with which they were dealing. In the face of this upsurge, which had reverberations in other parts of India

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as well, new ways of maintaining their power had to be devised. On assumption of office, Morley and Minto clearly perceived that the Partition of Bengal in the face of hostile opinion was a mistake and that it was unstatesmanlike to belittle either the importance of the Indian National Congress or the aspirations of politically conscious Indians. The great problem before them was: how to contain the growth of anti-government ideas without weakening the imperial system, the maintenance of which was the primary function of the Government of India? In addition to dealing with anti-government activity by repressive legislation, they thought in terms of remedial measures of a permanent nature. One obvious line of advance was seen as the introduction of changes in the constitution of the central and provincial legislative bodies. What stands out in the correspondence and consultations preceding these changes is not the concern for the well-being of Indians but a desire to gain the support of as many vociferous and influential groups as possible.

A section of the nationalist leadership which had come to be known as 'Moderate' by this time, believed in the continuation of the British connection and hoped to regenerate India under the auspices of foreign rule by appealing to the conscience of the rulers. They did not differ from their 'extremist' counterparts in their economic and social backgrounds. The nationalist leaders of this period were marked out by English education which gave to most of them a fairly secure social and economic base in legal and other professions. Many of them had income from land or business also. Where the two sections differed was in their attitude towards the British. The moderates had unbounded confidence in their sense of justice and generosity and saw a divine purpose in British connection. Bhupendranath Basu, who represented the unreserved seat from Bengal from 1910 to 1912 and became the president of the 1914 session of the Indian National Congress, said in the Legislature: 'To the British nation British rule in India may be a source of glory, of prestige, of rank in the scale of nations... To us it is our only hope of a brighter future for our country; it is to us the rescuing hand held out to a drowning man in the darkness of the night.'² The extremists on the other hand, were

²Imperial Legislative Council Proceedings, 8 Feb. 1910, p. 116.

convinced that the British rule was anything but divine

This, however, did not make the moderates less patriotic than their more militant species. In fact, at that time the moderates and extremists were party labels and did not necessarily stand for degrees of patriotic fervour. The moderates were able to reconcile their loyalty to the British with duty towards the land of their birth. They showed a genuine concern over problems of poverty, lack of facilities for education, lack of industrial development of the country etc. They were also conscious of the political, economic and administrative disabilities to which their countrymen were subjected because of continuance of British rule. Still they did not advocate its immediate termination. There were reasons for this. They accepted Whig conviction that progressive development of elective institutions guaranteed stable and ordered political progress. This they hoped to get gradually from their rulers. *They distrusted the bureaucrats in India and believed that wrong policies could be pursued in India because British public remained ignorant about them.* They aimed at keeping the public opinion and electorate in Britain better informed so that they would sanction only such policies as would benefit Indians. Moreover they believed that their countrymen were poor and ignorant and needed to be equipped for responsibilities of self-government on parliamentary model. They were also conscious of the power and resources at the disposal of the Government. At the Surat session of the Congress in 1907 Gokhale told the militant members 'You do not realize the enormous reserve power behind the Government. If the Congress were to do anything such as you suggest, the government would have no difficulty in throttling it in five minutes.'³ Their aim, therefore, was not to create an anti-British front but to take their countrymen ahead under the guiding hands of the British. They were ready to accept a government foreign in personnel but wanted it to be national in spirit, 'a government that will enable us to feel', as Gokhale said in his 1905 Presidential address to the Congress, 'that our interests are the first consideration with it and our wishes and aspirations are a matter of some account.'

³Cited in Andrews and Mookerjee, *The Rise and Growth of the Congress in India* (London, 1938), p. 215

For this purpose they put forward demands for liberalization of legislative bodies and Indianization of public services.

In this context there was no need to assign any role to the mass of the people. They had such a confidence in the generosity of British people that they assumed that force of opinion of educated Indians would suffice to provide the pressure. Herein lay the most serious flaw in the logic of the moderates. It may be added that though the extremists had greater faith in the power of the masses, they, too, had not yet evolved any technique of using their power effectively. In this sense the moderate section of the nationalist leadership included most of the Congress leaders who controlled the Congress after 1907; many Muslim leaders like Mazharul Haque, M.A. Jinnah, Syed Muhammad Bahadur, Raja of Mahmudabad, and many others who played a leading role in both the Congress and the Muslim League, in fact all men irrespective of religious denomination or political affiliation who saw their role as participation in a national movement and who shared common hopes, goals, idioms and faith in methods of achieving their goal.

The Morley-Minto reform scheme was frankly a gift of the imperial rulers to this section of the nationalist leadership with a view to add weight to their voice at a time when their methods and programme were being decried. In proposing it, the Government of India stated candidly:

We are no advocates of representative government for India in the western sense of the term; it could never be akin to the instincts of the many races composing the population of the Indian Empire. It would be a western importation uncongenial to Eastern tastes. . . . The Government of India must remain autocratic and the supreme power must be vested in British hands, and cannot be delegated to any kind of representative assembly.⁴

While the guardians of the Raj recognized that the moderates were one influential group they could hope to win over by conceding some of their demands, they saw only dichotomy in the theoretical formulations of the moderates and the ultimate con-

⁴Governer-General in Council to Secretary of State, 21 Mar. 1907, para 5, Morley Papers (32).

clusion to which their logic pointed. The demands they put forward could not possibly be accommodated within the imperialist framework. Curzon gave expression to it in his characteristically unambiguous style.

Gokhale either does not see where he is going, or if he does see it, then he is dishonest in his pretensions. You cannot awaken and appeal to the spirit of nationality in India and at the same time profess loyal acceptance of British rule.⁵

Morley confessed that he half wondered whether Gokhale was not 'at heart as much a revolutionist as Pal and Co'.⁶ Hardinge described him as 'the most dangerous enemy of British rule in the country'.⁷ About Surendranath Banerjea he noted that he was 'really a poisonous creature' and that his paper *Bengalee* was 'absolutely dishonest, inconsistent and impervious to argument'.⁸ Given this assessment of the moderates, it would have been unwise on the part of the Government to rely on the support of this class alone. Therefore, in addition to making an attempt to win over this section of the nationalist leadership to the cause of the Empire by making adjustments in the administrative machinery, the imperial rulers raised other pillars of support. They first thought of a council of princes or its elaboration, a council of notables. This plan was later abandoned. In the meanwhile demands of the Muslims for special treatment provided a promising alternative. The British bureaucrats tenaciously upheld their cause and gave institutional sanction to these demands. This decision was to produce momentous consequences.

The Indian Councils Act of 1909 enlarged the size and increased the functions of the central and provincial legislative bodies. In the central legislature provision was made for 67 members of whom thirty two could be non officials. Provision

⁵Cited in B.R. Nanda, *Gokhale, The Indian Moderates and the Raj* (London, 1977), p. 176.

⁶Morley to Minto, 18 July 1907, Minto Papers (M 1006).

⁷Hardinge to Carmichael, 2 Aug 1912, Hardinge Papers (84).

⁸See Home (Political) A Progs., Feb 1913, 9.35 (Confidl).

was also made for filling at least twenty five of these thirty-two seats by election. Definite elected seats were earmarked for Muslims and landholders. The electorates were extremely small. Over the whole of India there were some 3,000 voters who voted directly in the election to the central legislature. Of these about 900 elected to six landholders' seats, a little over 1,900 elected five representatives of Muslims and the remaining 12 unreserved seats were filled by about 200 non-official members of provincial legislative councils who were in turn elected by some 33,000 electors.⁹ The size of these electorates was thus ludicrously small and in granting this right to vote premium was put on possession of property. Still the introduction of elections marked a distinct innovation.

Many amongst the contemporaries feared that given the restricted constituencies and wide powers vested in the Government, 'rich idlers', 'men of *aap ke vaste* order' or 'mediocrities' would swamp the legislative bodies. But this did not happen. A galaxy of brilliant nationalist leaders who were known for their moderate approach entered the legislature. Five of its members—Nawab Saiyid Muhammad Sahib Bahadur, Gokhale, Bhupendranath Basu, Madan Mohan Malaviya and Surendranath Banerjea—presided over various sessions of the Congress, while five others—Sachchidanand Sinha, N. Subba Rao, D.E. Wacha, G.M. Bhurgri and Mazharul Haque—occupied its important offices. Four of its members—Abdul Majid, Jinnah, M. Haque and the Raja of Mahmudabad—presided over different sessions of the Muslim League. The legislative behaviour of these members was determined not by the constituency they represented but by their own conceptions of their roles as legislators.

The membership was also not confined to those who were born with a silver spoon. Bhupendranath Basu and N. Subba Rao were sons of Government employees, Madhusudan Das that of a *mukhtiar* while K.K. Chanda's guardian was a *peshkar*. Srinivasa Shastri and Vijiaraghava Chariar were self-made men. Malaviya's mother had to mortgage her ornaments to

⁹Two seats assigned to European Chambers of Commerce were filled by some 300 voters. But these electorates were confined to Europeans only.

finance the education of her children Gokhale allowed himself a meagre allowance donating whatever else he earned to the Servants of India Society The inclinations motivations, goals and achievements of the non official members far transcended official classifications Besides the solid official bloc, the two European non official members and one Burmese, there were only two divisions in the Legislature—the nationalist and loyalist The nationalists could not be described as collaborators by any standard As we shall see while crossing swords with them in the Chamber, the bureaucrats squirmed inwardly though outwardly they profusely complemented them What is more significant, their commitment to the cause of the nation transcended any denominational or class labels or the interest they represented A majority of them looked upon themselves as common participants in a political system

Gokhale acquired the reputation of being a sound parliamentarian and became known for his hard work, patience, perseverance and for presenting impeccable facts and figures The Finance Member described him as 'a veritable triton among the minnows' ¹⁰ In the reformed Legislature he tried to organise the non official members with the object of exploiting the newly acquired privileges more advantageously Both in official and non official circles he was often referred to as 'the leader of the opposition' The officials welcomed his appointment to the Public Service Commission because this would remove him from the Legislature Such a man could not be dismissed as only a representative of a 'doubly indirect electorate' He entered and worked in the Legislature as a spokesman of nascent nationalism

Malaviya was another prominent non official member who managed to win at each election though in the official circles he had the reputation of being absolutely irreconcilable of a man who was 'always a bitter critic of the Government and unable to recognise any good in anything' ¹¹ In 1905 he gave up legal practice to devote himself to public work on full time basis He started many papers including *Kisan Leader* and *Abhyudaya* In 1909 and 1918 he presided over Congress

¹⁰Wilson, *Letters to Nobody, 1908-1913* (London, 1921) p. 112

¹¹*Ibid*

sessions and was President-designate of its two banned sessions in 1932 and 1933.

Surendranath Banerjea's entry was not welcomed by the officials. Hardinge described him as 'absolutely dishonest'. In official files he was classified as a dismissed ICS, a teacher in a college and a journalist. But any classification in this manner did not take account of the facts that Morley himself described him as 'the king of Bengal', that his appearance at the platform of the Indian National Congress was always an occasion for tumultuous applause and then hushed silence and that he was labeled as 'Mr. Surrender Not' at one stage.

Similarly, D.E. Wacha was always classified as a man of commerce which indeed he was. But what is more significant, he was the Secretary of the Indian National Congress for many years working day and night for its continuance, a work which was simply a labour of love for him. Khaparde who managed to enter the Legislature was described in official files as 'a dangerous agitator and an ally of Tilak'. Another notable member to enter through the unreserved seat was Nawab Syed Muhammad Bahadur. Professionally he was a landlord and denominationally he was a Muslim. But it is interesting that he succeeded in open election in a province where the population of Muslims was only six per cent. He owed his position to being a prominent nationalist leader. In fact he was the only member of the Indian National Congress who had the triple distinction of being the chairman of the Reception Committee of the Congress (1903), its President (1913) and its Secretary (1914-1917).

Many of the members who entered the Legislature through constituencies reserved for Muslims and landholders were also nationalists in their outlook and recognised that they had common interests with other Indians vis-a-vis the foreign rulers. The most prominent of them was Mahomed Ali Jinnah who twice represented the Muslims of Bombay. He became known as an ardent nationalist, a gifted parliamentarian and a courageous speaker. It is significant that when he joined the Muslim League in 1913 he made it clear categorically that his loyalty to the League would, under no circumstances, imply even a shadow of disloyalty to the larger national interests. In 1919 he was the only member who resigned unhesitatingly by

way of protest against the passing of the Rowlatt Act. Another representative of Muslims, Mazharul Haque, was a prominent member of the Indian National Congress. In his speech as the chairman of the reception committee at the Bankipur session of the Indian National Congress in 1912, he denied that the Congress was a Hindu organization and added that its ideals had 'always been national and not sectarian'. Similarly, K. V. Ramaswamy Iyengar, who represented the landholders of Madras, acted as the Secretary of the Home Rule League. Raja of Mahmudabad and G. M. Bhargava were big zamindars and Muslims and were, therefore, expected to tow the official line. But they were very active members of the Indian National Congress also.

There were some loyalist members who did not want to risk disfavour of government officials. On most issues, specially in the beginning, they registered a silent vote for the Government. Even when they chose to speak, their speeches provoked ridicule rather than serious hearing. Surprising thing is not that these servile men existed because in any institution there would be some men who would support the established order. In any case, the constitution of this legislature was especially designed to rally them to the cause of the empire. What is notable is that there were many issues on which even these loyalist members voted against the Government.

The procedure adopted for the conduct of business provided ample opportunities to non-official members to raise fresh issues in the legislature. The members began their work with great enthusiasm and some expectations. In all sincerity, and with 'grave sense of responsibility', these members tried to draw attention to what they often described as 'mistakes of policy'. In the process they focused on the 'Un-Indianness' of political, administrative, economic, financial, social and administrative policies. They had no hope of ever carrying a motion against the Government because the official members were in perpetual majority. Nor were the issues they raised new. They had been discussing them in the press and on the public platform for decades. What was different now was the obligation on the part of the Government to provide answers to their criticism, arguments and demands. In the process the Legislature became an arena for debate between

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entrenched imperialism and insurgent nationalism. But officials did not share the idealism, the enthusiasm and spirit of sacrifice which characterised the speeches of Indian members. A more important reason for the ineffectiveness of speeches and arguments on the official side was the wide gap between professions of British officials that they were working for upliftment of Indians and their actual aim which was to serve British imperial interests. The remarkable patience and endurance shown by Indian members in accepting defeat after defeat and futility of any efforts to convert the Government's argument dealt the final blow to the myth of providential character of British rule. Later, though some groups did come to the method of constitutional agitation, they did not shake the faith of the Moderates in indispensability of British rule. By exposing the un-Indian character of British policies on the official measure, the debates strengthened nationalist ideology. Since the proceedings of the Legislature were reported in various gazettes and newspapers, the debates also helped in popularising it. Few imperial governments can survive for long if they starkly expose their real nature for all to see. The work in the Legislature thus made an important contribution to the movement for India's freedom from British rule.

Chapter II

The Advent of Reforms

The East India Company's affairs had always been regulated by the British Crown. In determining the structure of its Indian Empire, the British Government was governed by two contradictory impulses. On the one hand, the difficulties of controlling Company's administration from such a distance as lay between London and Calcutta pointed to the need to devise some ways of providing effective safeguards against error or mediocrity and reviewing the activities of administration in India itself. On the other hand, the compulsions of ruling over an alien population made it necessary to provide for a strong executive. It is in this context that the evolution of a separate legislative body has to be appreciated.

Prior to 1909, when the separate existence of the Legislative Council was not statutorily recognized, India was governed by a single council—the Council of the Governor General—which met occasionally for legislative purposes. In the latter capacity, it was known as "the Council of the Governor General for making Laws and Regulations." This course was adopted with a view to avoid giving cognizance to the existence of a separate legislative body, for any such attempt, it was feared, would weaken the authority of the executive government. But a separate legislative organ had started emerging ever since 1833 when, to give the benefit of mature deliberation to legislative proposals, provision was made for the appointment of a Law

Member. The object of this chapter is to indicate the phases of such development up to the enactment of the Indian Councils Act of 1909.

The Charter Act, 1833

A distinction was first introduced between the executive and legislative functions by the Amending Act of 1786 which made clear that the power of the Governor-General to override the decisions of his Council would be confined to executive matters only and not to legislation.¹ The two functions were, however, to remain vested in the same Council.

The Charter Act of 1833 vested all executive and legislative authority in a single body—the Council of the Governor-General—which was enlarged by the addition of a fourth ‘ordinary member.’² Though called ordinary under the provisions of the Act, the fourth member was entrusted exclusively with legislative work. The reason for the use of this nomenclature was that the framers of the Act did not want to give cognizance to any duality in structure. Collectively, the Council was empowered to make laws and regulations for all persons, all courts of justice, all places and things within and throughout the whole or any part of the Company’s territory and for all its servants. In the exercise of its legislative authority, the Governor-General in Council was not to alter any laws affecting the prerogative of the Crown or the authority of the Parliament or the constitution and rights of the Company.³

Though this Act refused to admit the principle of duality in structure, it did distinguish between the office of the fourth member and that of the others. In the first place, it provided that he ‘shall not be entitled to sit or vote in the said Council except at meetings thereof for making Laws and Regulations’.⁴ This provision contained the seeds of the enlarged Council of later days, known as the ‘Council of the Governor-General for the purpose of making Laws and Regulations.’⁵ Secondly, the

¹26 Geo. III, c. 10.

²3 & 4 Will. IV, c. 85, s. 39.

³*Ibid.*, s. 43.

⁴*Ibid.*, s. 40.

⁵*Ibid.*, s. 48.

Act provided that the fourth 'Ordinary Member, would be appointed by the Crown and that he was not to be a servant of the Company. The Act also made a distinction between the executive and the legislative functions of the Government by providing that laws and regulations could be made only when in addition to the Governor General, at least three other members were present, while all other functions could be exercised by the Governor General alone.

The first fourth Member appointed under this Act was T B Macaulay⁶ who had been an active member of the British House of Commons. He zealously guarded the responsibilities of his office as he understood them. As soon as he assumed office, he set himself to frame the rules of legislative business with the aim of subjecting the process of law-making to more mature deliberation. His aims were to provide security against precipitate legislation, to ensure for all members a fair hearing, and to afford time and opportunity to the public for expression of sentiments upon laws before their final enactment.⁷ The rules he framed were different from the rules of executive business. In order to emphasize the difference between them, he called the former 'Standing Orders'.⁸ The laws passed by this Council were to be known as 'Acts' and not as 'Regulations' implying thereby that they were not issued by the executive but were passed after due deliberation.⁹ In its legislative capacity, the Council of the Governor General became essentially a Legislative Council and its members were addressed as the 'Honourable Members of the Legislative Council'. These rules of business introduced an element of functional specialization for the first time. Though British India continued in law to be governed by a single Council, it

⁶First Law Member of the Supreme Council of the Government of India from June 1834 to Jan 1838

⁷Minute by T B Macaulay, 28 May 1835, *Collection of Papers relating to Rules regarding the Constitution and Functions of the Government of India* (Calcutta, 1887), pp 23

⁸Standing Orders of the Council of India, 6 July 1835, in C D Dharkar, ed., *Lord Macaulay's Legislative Minutes* (Oxford University Press, 1946) Appendix II, pp 302-3

⁹See Minute by Macaulay, No 1 11 May 1835, *Ibid*, pp 145-50

became clear that in practice henceforth legislation would have to be treated as a special function of the Government requiring a special procedure.

As soon as Macaulay assumed charge, he tried to assert the dignity of his office by highlighting the legislative aspect of the functioning of the Council. He insisted that the Act had constituted two bodies—the Executive Council and the Legislative Council.¹⁰ H.T. Prinsep,¹¹ a member of the Executive Council, on the other hand, emphasized the indivisibility of the functions of Government and argued that the public must not be made to believe that it had two masters.¹² His view prevailed on the Government of India.¹³ But, in spite of this, as a corollary to the position assigned to the fourth member and the distinction introduced between the rules of executive and legislative business a distinct legislative organ had started emerging. The controversy dominated the following years until the separate existence of the 'Legislative Council' was statutorily recognized in 1909.

The Charter Act, 1853

Under the provisions of this, too, British India continued in theory to be governed by a single Council. Under its provisions, the fourth ordinary member of the Council was made a full-fledged member having a right to vote on all questions.¹⁴ For the purpose of legislation, this Executive Council was enlarged by the addition of four civil servants, one each from Madras, Bombay, Bengal and the North-Western Provinces, and two judges of the Supreme Court of Judicature at Fort

¹⁰Minute by Macaulay, 13 June 1835, *Collection of Papers relating to . . . Government of India*, op. cit., pp. 8-11.

¹¹Temporary Member of the Supreme Council of the Government of India in 1835; Director of the East India Company 1850-58; Member of the Council of India 1858-74.

¹²Minute by Prinsep, 11 June 1835, *Collection of Papers relating to . . . Government of India*, op. cit., pp. 5-7.

¹³Despatch to the Court of Directors, No. 2, 24 Aug. 1835, para 102. *Ibid.*, p. 13.

¹⁴16 & 17 Vict. c. 95, s. 21.

William in Bengal ¹⁵ These provisions were significant from two points of view. First, the principle that the provinces should be represented was recognized, and second, as against six members of the Executive Council (which was to consist of the Governor General, four ordinary members and one extraordinary member) six Members were added for legislative purposes. But the innovation that distinguished this body from the Executive Council was the adoption in 1854 of the *Standing Orders for transaction of business*.

This Act was put into operation during the Governor-generalship of Lord Dalhousie ¹⁶ He showed great concern for the rights and wishes of European settlers in India and claimed for the members of the Council 'publicity, freedom and an honourable position'. He provided the Council with a parliamentary form of procedure and encouraged it to assert its independence as a separate organ of the Government. On 20 May 1854 he submitted a minute to the Council in which he distinguished the 'Council of India' in its executive capacity from the 'Council for making laws and regulations' ¹⁷ He designated all six additional members of the latter body as 'Legislative Councillors' and the Council of India in its legislative capacity as the 'Legislative Council' ¹⁸ On the same day this Council adopted as many as 136 Standing Orders, under which the proceedings of the Council for legislative purposes were to be conducted orally with all due formality. These provided for three readings of a bill, appointment of the Clerk of the Council, appointment of select committees to consider the Bills and for admission of the public to the debates. These rules were based on the practices of the British Parliament. Though the executive and legislative functions remained in law vested in a single Council, in actual operation two distinct bodies had started emerging.

¹⁵*Ibid*, S 22

¹⁶Governor General of India from Jan 1848 to Feb 1856

¹⁷*Proceedings of the Legislative Council of India* (Calcutta, 1856),

v 1, p 1

¹⁸*Ibid*, p 3

Within the framework laid down by the Standing Orders, the Members of the enlarged Council began to flaunt their independence which Canning, Dalhousie's successor, found very inconvenient. In all matters, they tried to establish that relationship with the Executive Council which existed between the executive and the legislature at 'home'. Sometimes they moved resolutions on matters brought to their notice by private individuals and tended to look upon the Legislative Council as a 'body for the redress of grievances'.¹⁹ In legislative matters too, they tended to take a strongly anti-Government stand.²⁰ For these reasons this body was derisively called 'Little Parliament'. All these developments perturbed Sir Charles Wood,²¹ the framer of the Charter Act of 1853. In his correspondence with the Viceroy he made clear that he never wished to create a body in India which could 'set itself up as independent of the Government'.²² He feared that such a body would not remain subject to control from London, and that it would disregard the right of the Secretary of State to interfere with the process of legislation at all stages.²³

The Indian Councils Act, 1861

The event that dictated the necessity of a change was the Revolt of 1857. From the administrative point of view, it emphasized the need for two things. First, it made it clear that the authority of the Executive should be strengthened. This implied that the independence which the 'Legislative Council' had assumed should be curtailed. Secondly, it underlined the

¹⁹Speech by Sir Charles Wood on the first reading of the Indian Councils Bill in C. Ilbert, *The Government of India* (Oxford, 1898), p. 552.

²⁰For example in the case of the Trades and Professions Bill and the grant of money to the descendants of Tipu Sultan. For details see (Desika Char. *Centralized Legislation* Delhi, 1963), pp. 140-1 and 160.

²¹B. 1800; M.P. 1832-65; Chancellor of Exchequer 1846-52; President of the Board of Control 1852-5; First Lord of Admiralty 1855-8; Secretary of State for India 1859-66; Created Viscount Halifax 1866; d. 1885.

²²Cited in R.J. Moore, *Sir Charles Wood's Indian Policy. 1853-1866* (Manchester, 1966), pp. 49-50.

²³*Ibid.*, p. 50.

futility of trying to govern India with the aid of official opinion alone. Men like Sir Bartle Frere and Sir Syed Ahmad Khan emphasized that the great evil of the system was that the Government had no means of knowing how its measures were received and whether they suited the people or not until their resentment took the form of bitter hostility and rebellion. Moreover, the British settlers in India were feeling insecure after the events of 1857-58, and Frere said that 'unless you have some barometer and safety-valve combined in the shape of a deliberative council, I believe you will be liable to very unlooked for and dangerous explosions'.²⁴ It was necessary to do something to reassure this community.

The Indian Councils Act²⁵ was passed in 1861 with these objects in view. This Act increased the number of ordinary Members of the Council from four to five.²⁶ It authorized the Governor General to nominate not less than six and nor more than twelve members to the 'Council of the Governor General assembled for the purpose of making laws and regulations'.²⁷ These members were entitled to sit and vote only at the meetings of the Council called for conducting legislative business. An important innovation was introduced by providing that not less than half of the additional Members would be non-officials, that is, persons not in the civil or military service of the Crown in India.²⁸ Under this provision, Indians were regularly to be nominated to this body.

Sir Charles Wood, the Secretary of State for India, very much regretted that the Council had been set up on parliamentary lines by Dalhousie. He could see no point in encouraging such pretensions by the addition of non-official members.²⁹ He wanted to reduce the Legislative Council to its original position as an advisory body. In this he was supported by Lord Canning who, as Viceroy, inherited Dalhousie's creation.

²⁴T. R. Metcalfe, *The Aftermath of Revolt: India, 1857-1870* (Princeton 1963), p. 264.

²⁵24 & 25 Vict., c. 67.

²⁶*Ibid.*, s. 4.

²⁷*Ibid.*, s. 10.

²⁸*Ibid.*

²⁹Metcalfe, *op. cit.*, pp. 262-5.

The Act sought to curb the 'independence', which the Legislative Council had assumed by elaborately defining the functions of this enlarged body and by making the executive strong. It provided that 'No business shall be transacted at any Meeting for the purpose of making laws and regulations. . . other than the Consideration and Enactment of measures introduced into the Council for the purpose of such Enactment . . .³⁰ Thus the functions of the Council were confined strictly to legislation. The power of legislation was further circumscribed by providing that no Act would be passed which would in any way repeal or affect any of the provisions of this Act, the Acts passed by the British Parliament, the authority of the Parliament, the constitution and rights of the East India Company or any part of the unwritten laws or constitution of the United Kingdom³¹. It further provided that any measure affecting the public debt or public revenues of India, religion or religious rights and usages of any class of Her Majesty's subjects in India the discipline or maintenance of any part of Her Majesty's military or naval forces and the relations of the Government with foreign princes or native states could not be introduced without the previous sanction of the Governor-General.³²

In the form of procedure too, Sir Charles Wood deprecated the adoption of any practice that could give it the semblance of a Parliament. He insisted that there was only one Council which occasionally made laws and when it made laws, certain other persons sat with the ordinary members. In his despatch of 9 August 1861, he wrote that the Council, at its meetings for making laws and regulations, was not to be a body separate and distinct from the Council of the Governor-General and that 'each Council should be designated according to the form followed in the Act, and no other'.³³ Petitions relating to legislative matters were to be addressed to the Governor-General. Sir Charles Wood reacted sharply when the word 'session' was

³⁰24 & 25 Vict, c. 67, s. 19.

³¹*Ibid*, s. 22.

³²*Ibid*, s. 19.

³³Sir Charles Wood's Despatch accompanying the Indian Councils Act, 1861, Leg. No. 14, 9 Aug. 1861, para 23 in Ilbert, op. cit., p. 565.

used in the Rules of Business by the Government of India. He asked 'A session of what? Not of a Legislative Council, for there is no such body—not of the Govr. Genl's Council, for it is never out of session. There may be a cessation of legislative work—but that is not a formal prorogation or adjournment of the Govr. Genl's Council.' He agreed that the practical effect was the same, but emphasized that 'the one form necessarily implies a legislative council having a sort of separate existence, whereas the other does not. I need not tell you how much significance there sometimes is in form'.³⁴

Thus the Act did not give cognizance to the duality in structure or the separate existence of the Legislative Council. Yet it was impossible to retrace the steps. Publicity once conceded could not be withdrawn, nor could the Europeans be deprived of either their spokesmen or of the functions they had assumed. The Executive Council continued to submit every Bill to the enlarged Council for deliberation and consent. Select committees composed of both official and non official members continued to examine all important bills, and the enlarged council continued to discuss them publicly. In spite of every effort, made by Sir Charles Wood to insist on the existence of a single Council, the Council for making laws and regulations continued as the Legislative Council, separate and distinct from the Executive Council. The two Councils could not be identical because of the functional difference laid down in the Act itself and the differences in the rules for the conduct of legislative and executive business which followed from the rules framed by the Government of India. In a private letter to the Secretary of State, Lord Canning³⁵ admitted that it was too late to completely subordinate legislation to the the executive Government and to withdraw public attention from the Legislative Council.³⁶

The decision to add Indians to the Council of the Governor-General for making laws and regulations proved to be of great consequence. Even before the passing of the Charter Act of

³⁴Wood to Elgin 19 May 1862 in C.H. Philips, ed., *The Evolution of India and Pakistan, 1858-1947. Select Documents* (London, 1962) p. 42.

³⁵Governor General of India from Feb. 1856 to Mar. 1862.

³⁶Cited in B.B. Misra, *The Administrative History of India, 1834-1947* (Oxford University Press, 1970), p. 28.

1853 the Madras Native Association and the British Indian Association had suggested that Indians should be included in various Councils. In the British Parliament too a few radical members had taken up the issue. But the members of the Board of Control as well as the Court of Directors were unwilling to consider any such step. Even John Stuart Mill, for all his theoretical radicalism, came out in opposition to this proposal.³⁷ Their main argument was that the country was too vast and the people divided into too many antagonistic sects, for any system of representation to be effective. But from 1862 Indians were always included in the Legislative Council. For the first twenty years usually three Indians were nominated. At this stage the power to nominate Indians was used as a means of distributing official patronage and those Indians amongst the princes and landlords were nominated who had helped the British in 1857-58. Still the decision to nominate Indians was significant. It amounted to a tacit recognition that Indian opinion was worth listening to, that British officials were not the best interpreters of the wishes of Indians and that even an authoritarian colonial government could not work in complete seclusion.

The Government of India was gradually realizing the need to devise additional channels for apprising people of its own intentions and of knowing their wishes. Ripon, the Governor-General from 1880 to 1884, tried to involve educated Indians with administration. He introduced changes not only in the structure of local government but also took steps to develop the machinery for information and consultation. He was the first Governor-General to have nominated an Indian merchant, an inspector of schools and a presidency magistrate to the Legislative Council. In 1883, as part of the general scheme of giving greater publicity to legislative measures, the rules of legislative business were so amended as to provide for the publication of every bill immediately after the motion to introduce it was agreed to so that the people could express their opinion if they wanted.³⁸ Similarly, though the Act did not permit the enlarged council to transact any business other than that of legislation,

³⁷See Metcalfe, *op. cit.*, p. 262.

³⁸See Leg. A Progs, Feb. 1883, 152-8.

in practice the annual financial statement was laid before it. This provided an opportunity for reviewing the financial situation of the country. Thus the body which had been created purely for legislative purposes was gradually acquiring a political dimension. During the consultations preceding the passing of the Indian Councils Act of 1861, some expressed the fear that the enlarged Council might some day form a nucleus for representative institutions. At that time such a development seemed so remote that these apprehensions were not taken seriously.³⁹ But in course of time such premonitions proved correct though the changes in the Council's composition and functions from time to time were an outcome not so much of the character of this body itself as of developments outside it.

The Indian Councils Act of 1861 worked satisfactorily from the point of view of the Government. But the period following its enactment saw remarkable growth of national consciousness of a feeling that people inhabiting the country had common interests, aspirations and destiny. Material conditions for the germination of this feeling were provided by the British themselves. They had held together the whole of the Indian subcontinent, provided for its security, given uniformity of administration which also had the effect of creating similar grievances against the government and had provided conditions for the integration of people by introducing easier and faster means of communications. But it was the inspiration and confidence derived from the growing knowledge about India's vast achievements to which scholars both Indian and European contributed which increased the self-esteem of Indians and made them conscious of their potentialities. It was this confidence together with irritations caused by policies adopted by the imperial rulers, especially during the Viceroyalty of Lord Lytton which made them increasingly aware of their real status in their own country under foreign rule. Though many British officials and commentators continued to believe that India was a congeries of tribes, religions and castes and that emergence of pan-Indian nationalism was impossible,⁴⁰ the perceptive amongst them had not only started noticing this

³⁹See Metcalfe *op cit*, p. 267.

⁴⁰Strachey, *India* (London) 1888 pp. 5-8.

The Advent of Reforms

new phenomenon, but also grasped that the growth of nationalism was inconsistent with the basic interests of British rule. John Robert Seeley, the Regius Professor of Modern History at Cambridge, said in the course of his lectures in the spring of 1881, that 'if a feeling of a common nationality began to exist in India only feebly, if, without inspiring any active desire to drive out the foreigner, it only created a notion that it was shameful to assist him in maintaining his dominion, from that day almost our Empire would cease to exist.'⁴¹ The knowledge that the Indian Empire was maintained only by a handful of British civilians and soldiers and the experiences of the Revolt of 1857, which continued to haunt them, increased their anxiety. It is in this context that both the establishment of an all India body in 1885 in the shape of the Indian National Congress and the reactions of the British officials in India to its establishment can be grasped.

In its very first session the Indian National Congress passed a resolution asking for the expansion of the Legislative Councils by the admission of elected members and the enlargements of their functions.⁴² These demands were reiterated every year.⁴³ The Congress members pointed out that the nominated members did not really represent the Indian point of view because many of the members did not know English, were yesmen of the Government and did not attend all the meetings. As to functions, the congress wanted regular opportunity of discussion on the country's finances.

After initial recognition by the Government, the Indian National Congress was given a cold shoulder by British officials. In his public speeches Dufferin dismissed the educated Indians as 'a microscopic minority'. But his private correspondence shows that he clearly grasped the true nature and long-term consequences of the growth of nationalist feeling, that he was not deceived by the loyal tone of Congress proceedings and that he realized that the growth of nationalism was inimical to the interests of British rule. In their demand that India should be primarily governed in the interests of the

⁴¹J.R. Seeley, *The Expansion of England* (London, 1883), p. 227.

⁴²*Proceeding of the Indian National Congress*, 1885, Reso. III. Hereafter referred to as INCP.

⁴³*Ibid.*, 1886, Reso. IV; 1887, Reso. II; 1888, Reso. I.

Indian people he saw a threat to the interests of British capital the maintenance of which was the primary duty of the Government of India⁴¹ It was with a view to accommodate those elements among the nationalists who rigidly confined their demands within a narrow constitutional framework that he put forward suggestions for introducing changes in the composition and functions of the Central and Provincial Legislative Councils As early as April 1886 he wrote to the Secretary of State

Personally I should feel it both a relief and an assistance if in the settlement of many Indian administrative questions affecting the interests of Her Majesty's subjects, I could rely to a larger extent than at present upon the experience and counsels of Indian coadjutors. The fact of their supporting the Government would popularise many of its acts which now have the appearance of being driven through the Legislature by brute force, and if they in turn had a native party behind them, the Government of India would cease to stand up, as it does now, an isolated rock in the middle of a tempestuous sea⁴²

In this context Lord Dufferin's Government put forward suggestions for introducing changes in the composition and functions of Legislative Councils which formed the basis of the Indian Councils Act, 1892

The Indian Councils Act, 1892

The Indian Councils Act of 1892⁴³ was only an amending Act It merely introduced changes in the Act of 1861 so as to increase the size and functions the of Council for legislative purposes So far as functions were concerned, it empowered the Governor General in Council to make rules authorising the discussion of the annual financial statement of the Governor-

⁴¹See Bipan Chandra, *National and Colonialism in modern India* (New Delhi, 1979), pp 275-96

⁴²*Ibid*, p 296

⁴³55&56 Vict c 14

General in Council. The rules enabled the members to offer comments on the financial statement which was however presented as an unalterable document. Their observations could have effect only on the framing of the budget during a subsequent year and not on the statement itself. Members were also allowed to put questions, these questions were to be so framed as to be merely requests for information. Supplementaries were not allowed.

The most progressive feature of this Act, however, was the introduction of the rudiments of an elective system. The Government of India had deprecated method of relying solely on nomination; and had recommended that some approximation should be made to the elective principle.⁴⁷ But the attempt to provide for election on extremely limited scale was opposed in the House of Lords and, finally, a compromise had to be reached. The Act empowered the Governor-General in Council to make regulations as to the conditions under which such nominations should be effected. The Act, thus, provided for nomination. But on 28 March 1892 Lord Curzon, the Under-Secretary of State for India, made clear in the House of Commons that the Viceroy could invite representative bodies in India to elect or select or delegate representatives of themselves.⁴⁸ Thus, the door was not barred against election. In practice, non-official members of the Legislative Councils of Madras, Bombay, Bengal and the United Provinces and the Calcutta Chambers of Commerce were invited to recommend the names of their representatives. These names were accepted by the Governor-General as a matter of course,⁴⁹ but the provision for nomination had the effect of preventing certain members from being recommended.⁵⁰ The aim behind adopting this procedure was to invest the Governor-General with final authority in respect of their appointment and to make clear to

⁴⁷Report of Lord Dufferin's Committee on Provincial Councils (Oct. 1888) in C.H. Philips, *Select Documents on the History of India and Pakistan* (London, 1962), p. 61.

⁴⁸Speech by Curzon, 28 Mar. 1892, in Keith, *Constitutional History of India 1600-1935* (Allahabad, 1966), p. 62.

⁴⁹*Report on Indian Constitutional Reforms*, 1918 para 77.

⁵⁰Telegram from Governor-General to Secretary of State, 9 Feb. 1909, Home (Public) A Progs., Feb. 1909, Nos 205-44 (Confld.), p. 239.

The members that they occupied seats on the Council not as representatives of specific bodies but as nominees of the ed liberal Dr Rash ab Saiyid Muhammad Bahadur, Syed Hassan Bilgrami etc, to enter the Legislature Until 1892 not a single Member of the Indian National Congress had been nominated But after 1892 they entered in increasing numbers Not so the ruling chiefs and landholders Between 1862 and 1892, this class had occupied roughly forty nine percent of the seats while between 1893 and 1905, it occupied only twenty four per cent ⁵¹ The seat which this class lost were gained by the professional classes This development was watched with growing concern in official circles ⁵²

This Act was criticized at the 1892 and 1893 sessions of the Indian National Congress mainly because the elective principle had not been introduced But, on the whole, it seems that the early nationalists were satisfied with its provisions as during the next ten sessions of the congress no resolution was moved on this subject The non official members of the Legislative bodies gave a good account of themselves in respect of debating skills, intellectual abilities and sense of responsibility as legislators and as spokesmen of the Indian point of view But outside the Legislature chambers, this period was marked by growing impatience with the aims and methods of the Congress leaders, with its manner of functioning and with its impotent demands like association of a few Indians with the work of administration and enlargement of the Legislative Councils During 1885 and 1906 the number of students passing the Matriculation examination had increased from 1286 to 8211 and the number of newspapers and periodicals in Indian languages increased from 599 with a circulation of 299000 to 1107 with a circulation of 817000 ⁵³ Though statistical figures are an

⁵¹Papers Connected with the Report of Councils Committee, 1906, Part II, Minto papers (M 1051)

⁵²*Ibid*

⁵³Governor General in Council, No 7 21 Mar 1907, para 2, Home (Public) Morley Papers (32)

imperfect way of gauging political advance still they do indicate that the number of Indians who were likely to be more conscious of their rights as citizens and of duties and responsibilities of the Government, who had begun to comprehend the disadvantages of being under alien rule, and who viewed Congress activities not just with increasing scepticism but contempt was increasing. Even the well-wishers of the Congress were viewing with waning interest the congress proceedings at the turn of the century.

Curzon, the Governor-General during this period (1899-1905), exuding the confidence resulting from Britain's international position and eloquently proclaimed sense of imperial mission, viewed both the educated Indians and the Indian National Congress with contempt. In his policies he showed utter disregard for the aspirations of this class. The growing expression of this attitude was the Partition of Bengal in 1905 which was carried out in olympian disregard of the wishes of the people of Bengal. Originally this measure was undoubtedly suggested as a matter of administrative convenience. But it is clear that under Curzon political considerations supervened. Ever since the partition plan was announced on 12 December 1903, the people of Bengal had expressed their dissatisfaction in most unambiguous terms. They had suggested various plans for solving the administrative difficulty while at the same time preserving the unity of the Bengalee-speaking people. Persistence in enforcing the announced partition plan became a symbol of total disregard of the wishes of the governed on the part of the rulers and demonstrated the impotence of the techniques of sending prayers and petitions. The period was marked by acrimonious debates between the moderates and the extremists about their goal and, more particularly, the methods of putting pressure on the British. For a time the extremists had an upperhand. The embittered opposition to British rule found expression in demonstrations in Calcutta and other places and in the battle cries of *Swadeshi*, boycott, national education and passive resistance. The upsurge that followed was unprecedented in its intensity. The justness of the cause and the determined opposition in Bengal struck a sympathetic chord in the Central Provinces, Berar, Maharashtra and the Punjab. The actual enforcement of the partition produced a wave of resen-

ment even among the moderates. Contemporaries noted that Gokhale's speech as the President of the Congress in 1905 was not in the 'ultra moderate style' ⁵⁴

The anti partition agitation showed the trends and limitations of the nationalist movement in its embryonic stage. The belligerent mood and tactics of the extremists, of what the Government officials described as 'the advanced party' remained fruitless. Partition was not revoked. Boycott had come and gone leaving hardly a dent in the rising curve of foreign imports. Swadeshi industries and national schools petered out, the trade unions proved extremely short lived, and most of the *samitis* were crushed by police with surprising ease. The leaders failed either to draw in the peasant masses or to bridge the gulf between Hindus and Muslims ⁵⁵. The extremists failed to channelize their impatience with 'moderate methods'. After their leaders were imprisoned, the extremists were in the limbo for some time.

Although for some time, some of the moderate leaders, specially in Bengal, came out in support of boycott and swadeshi, they soon retreated and by and large remained committed to the method of making verbal appeals. They listened to extremist talk of getting rid of British rule by any means with concern. They wanted the Government to make some liberal gesture which would restore confidence in the British sense of justice. Since the 1904 session, they had passed resolutions demanding a larger voice in the administration and control of the affairs of their country by allowing each province to send a member to the British House of Commons, by enlarging the central and provincial legislative councils, by appointment of Indian representatives (to be elected by the elected members of the legislative councils) as members of the India Council at London and of the executive councils of the Governor General and governors. The success of the Liberal Party in Britain in the general elections held towards the end of 1905 and the appointment of Morley, a man known for his liberal sympathies, as Secretary of State for India filled them with hopes. They expected that

⁵⁴Khaparde Diaries, 27 Dec 1905

⁵⁵For details see S. Sarkar *The Swadeshi Movement in Bengal, 1903-1908* (New Delhi, 1973) p. 501

Morley would view the Indian question in a kindlier light.

The Morley Minto Reforms

Minto, who succeeded Curzon as Viceroy in November 1905, and Morley were poles apart in their backgrounds, ideological commitments, practical experiences and reputations. But as regards policies suited to India, they had similar views. Both were equally committed to the maintenance of British rule in India. Both recognized that though the partition of Bengal was a 'sad blunder', it would be a grave political mistake to undo it. Both recognized the importance of carrying Indian opinion along. They also agreed that Curzon had committed a grave political blunder in undervaluing the Indian National Congress. Far from slighting it as a body which would die a natural death, they looked upon it as an enemy which needed careful handling. Under Minto the Government of India conceded that the Congress had extended its operations through the agency of local committees to every district of India and that it had done much to promote the growth of a sentiment of common Indian nationality⁵⁶. They also agreed that it was necessary to work out some ways of reversing the trend towards alienation of increasing number of Indians from the Government. They watched the debates between extremists and moderates with great interest and concluded that Moderates formed one influential group in India which was interested in the continuance of British rule and which could be strengthened by accepting some of their demands. In a public despatch, the Government of India noted:

... we seem to be gradually losing our hold on the English speaking classes, and there are indications that the thinly veiled animosity felt by a considerable section of these classes is filtering down to a lower stratum of the population who do not understand the causes at work, but who see that the English officer no longer holds the commanding position that he did. A new departure is badly needed. . . . It is not too late to arrest the movement if only means can

⁵⁶G.G. in C. to S.S., 21 Mar. 1907, para 2, Morley Papers (32).

be found to bring the two classes together and initiate a new regime in which, while the paramount power and the ultimate decision will still be in British hands Indians will have a larger share in shaping the conclusions arrived at ⁵⁷

It may be noted here that neither had much confidence either in their ability to lead the people or even in their professions of loyalty to the British crown. In their private correspondence they reiterated the usual imperialist line that the moderate leaders represented a very small section of the people of India and that if by some miracle they obtained the reins of government they would not be tolerated by the people of India. This opinion was shared by other guardians of the Raj. The reason why the constitutional changes were introduced were summarized by H. H. Risley, the Home Secretary, who piloted the reform proposals through the various stages of draft proposals, committees, conferences and debates.

The general position is not unlike that which prevailed in Germany and Austria just after the French Revolution of 1848. There was then a demand for constitutions just as there is now (owing to the revolution created by the election of a Liberal Parliament) a demand for the extension of the elective system. The object is to satisfy this demand with the least possible disturbance of existing conditions and to do so in such a way as to give a preponderating influence in the elections to the stable elements of society in preference to the professional politicians and the middle class who are noisy in peaceful times and would be useless in any emergency ⁵⁸

Two features thus underlined the conception of the reform scheme. The more important of the two was a jealous insistence on the maintenance of British supremacy. The other was the desire to secure deliberative co-operation of some sections of the people. From the beginning Morley and Minto accepted that

⁵⁷ *Ibid.*, para 15

⁵⁸ Note by Risley, 25 Aug. 1906, para 2, Report on the Councils Committee and Connected Notes etc. (Calcutta, 1907), p. 13

hesitant concessions would not prove of much avail and that their aim should be to evolve a scheme involving comprehensive changes. After preliminary correspondence, three propositions emerged. These were:

- (i) the establishment of an Imperial Advisory Council;
- (ii) the appointment of Indian to the Viceroy's Executive Council and
- (iii) an increase in the size and functions of the Council of the Governor-General for making laws and regulations.

These propositions were first referred to a sub-committee in India which consisted of A.T. Arundel, Denzil Ibbeston, H.E. Richards and E.N. Baker with Arundel, the Home Member, in the Chair and Risley, the Home Secretary as Secretary. This Committee reported on 12 October 1906. Subsequently all these ideas were thrashed and worked out in elaborate correspondence between the Secretary of State and the Governor-General, between the Government of India and the provincial governments, between the provincial governments and various local bodies,⁵⁹ in many Committees and Sub committees appointed at Calcutta, Simla and London, in the debates in the House of Commons and in the Indian and Anglo-Indian press.

Of the three proposals, the first was given up after prolonged deliberations, the second was adopted without any statutory change, the third remained a subject of prolonged discussions and negotiations both in India and in Britain and resulted in the passing of the Indian Councils Act of 1909.

The Imperial Advisory Council

In order to bring the Government into closer touch with 'native opinion of the best sort' and 'to enlist on the side of the Government the constructive elements of native society as a

⁵⁹On 24 Aug. 1907 a long circular was sent to provincial governments enjoining upon them to circulate it with a view to consult universities, public bodies and eminent citizens See *Correspondence Regarding Councils Reform* (Calcutta, 1908), 3 vols.

counterpoise to the advanced party',⁶⁰ the Government of India considered the possibility of creating an Imperial Advisory Council. This was, in part, the revival of the old idea of associating ruling chiefs with the Viceroy 'in the guardianship of common and imperial interests. In 1877, during preparations for the imperial assemblage at Delhi, Lord Lytton's Government gave thought to the scheme of a Council comprising chiefs of Indian states and some senior members of the British Indian Civil Service which would advise upon a variety of subjects. Finally the title of 'Counsellors of the Empire' was conferred on some chiefs and British officials. But they were never formally consulted. Later Curzon put before the Secretary of State a scheme to create a council exclusively of ruling princes to deliberate exclusively on questions relating to the Imperial Service troops. The issue was still undecided when Minto became the Governor General. Even before the question of reform of the Legislative Councils was taken up, Minto had written to Morley

I have been thinking a good deal lately of a possible counterpoise to Congress aims. I think we may find a solution in the Council of Princes, or an elaboration of that idea, a Privy Council, not only of native rulers, but of a few other big men to meet, say once a year, for a week, or a fortnight, at Delhi for instance. . . but we should get different ideas from those of the Congress emanating from their already possessing a great interest in the good government of India.⁶¹

The question of forming the Imperial Advisory Committee was referred to the Arundel Committee. They recommended that a council of princes and of gentlemen of high standing 'drawn from British India should be created. However, they suggested that no rules should be laid down regarding its size, composition or proportion of its constituent elements. Instead these should be allowed to be determined by experience.

⁶⁰Report of the Councils Committee, 12 Oct. 1906, Morley Papers (32)

⁶¹Minto to Morley, 28 May 1906, Minto Papers (M-1006)

Though the Government of India accepted these proposals,⁶² Morley and some senior officials in India viewed them with misgivings from the very beginning. The ruling chiefs also refused to sit on any council along with mere *zamindars*. The criticism in India provided Morley with a convenient excuse and he advised the Government of India not to go ahead with the project which did not command the clear approval of those whose presence in the Council was essential.⁶³ Finally, the idea was given up. It were not just because of practical difficulties which stood in the way but also because of the memories of 1857, which haunted the Government more than ever in the year of its fiftieth anniversary, that the British administrators thought it 'politically dangerous' to provide a common organization to chiefs in all parts of India.⁶⁴

Appointment of an Indian to the Executive Council

The appointment of an Indian to the Viceroy's Executive Council, 'the citadel of British Power in India' was discussed at length between London and Calcutta. The suggestion made by Morley⁶⁵ attracted Minto. But Minto was apprehensive 'What would British sentiment be about the native member?' he wondered. The Arundel Committee, to which this question was first referred to, found itself equally divided. A. T. Arundel and E.N. Baker advocated the appointment of an Indian to the Executive Council not because it would increase the efficiency of administration but because it was likely to affect the much needed rapprochement between the educated Indians and the British bureaucracy. They pointed out that such an appointment would give a stake in the framework of the Raj because it would make every prominent Indian feel that by co-operating with the British, he could be appointed to that office. They also pointed out that this would take away 'the reproach that no

⁶²G.G. in C. to S.S., 21. Mar 1907, paras 9-12, Morley Papers (32).

⁶³S.S. to G.G. in C., 27 Nov. 1908, paras 3 and 4, Morley Papers (33).

⁶⁴See India Office Notes on Report of the Council Committee, 1906 Morley Papers (32).

⁶⁵Morley to Minto, 15 June 1906, Minto Papers (M-1006).

one of the 300 millions of the inhabitants of India is fit to be selected as a constituted and recognized adviser to the Viceroy in directing the affairs of the Indian Empire,⁶⁶ In short, the officials hoped that such an innovation would tend to transform and tranquilize the whole tone of public life in India. H E Richards and Ibbeston opposed this step on the ground that such an appointment, which would cost well over a lakh of rupees a year, was being advocated on political grounds and not because it would increase the efficiency of administration. The opponents included the majority of the Members of the Council of the Governor General, the governors of the Presidencies, members of the India Council and His Majesty the King himself.⁶⁷ The King voiced the feelings of all of them when he wrote

During the unrest in India at the present time and the intrigues of the natives it would I think be fraught with the greatest danger for the Indian Empire if a native were to take part in the Council of the Viceroy as so many subjects would be likely to be discussed in which it would not be desirable that a native should take part. However clever a native might be and however loyal you and your council might consider him to be, you never could be certain that he might not prove to be a very dangerous element in your Council.⁶⁸

Finally, the change was effected without legislation in the British Parliament. For this purpose the power of the Secretary of State to recommend such an appointment to His Majesty was utilized. Appointments were made first to the India Council. K. G. Gupta and S. H. Bulgrami were appointed to the India Council in November 1907 and March 1908 respectively. However, these appointments failed to evoke much applause in India because they coincided with the deportation of Lajpat Rai and the passing of the Seditious Meetings Bill in the face

⁶⁶Report of the Councils Committee, 12 Oct. 1906 para 21, Morley Papers (32)

⁶⁷*Ibid.*, paras 20-23

⁶⁸H. M. the King to Minto 20 October 1906, Minto Papers (998)

of bitter opposition both inside and outside the Legislative Council. In March 1909 Satyendra Prasad Sinha, the Advocate-General of Bengal, succeeded H. E. Richards as the Law Member in Governor-General's Executive Council. It is true that Morley chose for his Council not well known public figures like R. C. Dutt or Syed Mohammad Bahadur but K.G. Gupta, a not particularly brilliant member of the ICS and S. H. Bilgrami, a retired civil servant from Hyderabad and that when there was a choice between S. P. Sinha and Ashutosh Mukherjee, Morley was guided not by their competence but by their complexions. It is also true that only the portfolios of Law and later Education were given because these Departments were not required to take major policy decisions. The function of the former was only to give legal form to the proposals of the Government and Education Member could take decisions only after the budget was settled. Still, by admitting that Indians were better interpreters of the needs of their people, these appointments marked a new departure. Advocating this step the members of the Arundel Committee argued and the Government of India reiterated:

Such a member will of necessity be in closer touch with Indian thought and Indian sentiment on every class of question than is possible for the most sympathetic foreigner and his presence in the innermost circles of the administration will afford a permanent and visible guarantee that no great question affecting the interests of the people can ever be decided without responsible examination by one of themselves.⁶⁹

During the period under consideration four Indians were appointed to the Executive Council—S.P. Sinha, Syed Ali Imam, Sankaran Nair and Mian Muhammad Shafi. A perusal of the secret files of the Government of India clearly shows that within the constraints inevitably linked with their position as nominated members and of the distrust shown by their colleagues, these members, without exception, put forward

⁶⁹G.G. in C. to S.S., Home (Public) No. 7, 21 Mar. 1907, Para 19, Morley Papers (32).

the Indian side even at the risk of incurring not just displeasure but rancorous distrust of their colleagues Harcourt Butler the Education Member, confessed in a private letter that there was an increasing tendency to take major decisions at private meetings 'We admit Indians to our Councils and then relegate the Councils to insignificance' ⁷⁰ he reported But the precedent of appointing an Indian to the Central and Provincial Executive Councils was never reversed

The Indian Councils Act, 1909

The names of Morley and Minto are, however, associated with the changes introduced in the legislative machinery by the Indian Councils Act of 1909 ⁷¹ For the first time this Act referred to the Council for the purpose of making laws and regulations as the 'Imperial Legislative Council' Thus statutory recognition was given to duality in structure which had long since become apparent In official and un-official correspondence this Council was generally referred to as Indian Legislature This Act introduced changes in two important directions It considerably increased its functions and its size Section 5 of the Act provided 'Notwithstanding anything in the Indian Councils Act, 1861, the Governor-General in Council shall make rules authorizing at any meeting of the Council the discussion of the annual financial statement of the Governor-General in Council, and of any other matter of great public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules applicable to the Council' Under this clause rules were framed for the discussion of the financial statement, for moving resolutions on the financial statement, for moving resolutions on matters of the general public interest and for putting supplementary questions

The size of the Legislative Council was also increased considerably Under the Indian Councils Act of 1892 the number of additional members of the Legislative Council varied from ten to sixteen The Act of 1909 increased this number to sixty.

⁷⁰Butler to Glory, 1 Aug 1913, Butler Papers (29)

⁷¹9 Edw VII, c 4

Though provision was made for a non-official majority in the provincial Legislative Councils, at the centre the majority of the official members was maintained. The reasons were stated as follows by the Government of India: 'It is obvious that under existing constitutional conditions the Government of India cannot resign; it must be able to settle the budget and procure supplies for the service of the country; and it cannot divest itself of the power to give effect by legislation to the decision of His Majesty's Government'.⁷²

The Government of India put forward a proposal to carry on the work in the Legislature with a minority of officials on all ordinary occasions with reserve power in the last resort to transform this minority into a majority. They were sure that they would be able to secure sufficient non-official support.⁷³ But the Secretary of State did not approve of this plan which implied that a certain number of gentlemen would have to be imported to vote down something upon which they might or might not have heard the arguments on both sides.⁷⁴

The Act became a landmark because of the manner in which the non-official seats were distributed and filled. Thirty-two seats were reserved for non-official members of which at least twenty-five were to be filled by election. The seats were assigned in the following manner:

1. Elected Members:

- | | |
|---|---|
| (a) By non-official members of the Legislative Councils of Madras, Bombay, Bengal and the United Provinces | 8 |
| (b) By non-official members of the Legislative Councils of the Punjab, Eastern Bengal and Assam and Burma and by delegates in the Central Provinces | 4 |
| (c) By the Muslims of Madras, Bombay, Bengal, Eastern Bengal and Assam and the United Provinces | 5 |

⁷²G.G in C. to S.S., 1 October 1908, para 23, Morley Papers (33).

⁷³*Ibid.*, para 24.

⁷⁴S.S. to G.G. in C., 27 Nov. 1908, para 22, *Ibid.*

(d) By the landholders of Madras, Bombay, Bengal, Eastern Bengal and Assam, the United Provinces and the Central Provinces	6
(e) By the European Chambers of Commerce of Bombay and Calcutta	2

2 Nominated Members

(a) From the landholders of Punjab	1
(b) From the Muslims of Punjab	1
(c) From the Indian Chambers of Commerce	1
(d) Unassigned	4
	<hr/>
Total	32
	<hr/>

Of the twenty five elected Members, twelve were to be elected by non-official Members of different legislative Councils (by delegates in the Central Provinces), six by landholders, all provinces save Punjab being thus represented, five by Muslims in as many provinces and two by the European Chambers of Commerce. The Muslims and the landholders were thus given weightage not with reference to the actual results but in anticipation of them. In addition to the five seats assigned to the Muslims of Madras, Bombay, Bengal, Eastern Bengal and Assam and the United Provinces, the Muslims of Punjab were given one nominated seat. But to give 'weightage' to Muslims, the Government of India wanted to assign at least eight seats to them. It also wanted to ensure that these members 'truly' represented their community and that the field for nomination by the Governor General was not trenched on. So the Regulations were framed in such a manner as to give two landholders' seats to Muslims. The Government of India laid down that at the first, third and every alternate elections the representative of Bombay landholders would be elected by the landholders of Sind, most of whom were Muslims, and at other elections he would be elected by the Sardars of Gujarat and the Deccan, a majority of whom were Hindus. Again, since the landholders of Punjab consisted of almost an equal number of Muslims and non Muslims, it laid down that at the first, thirty and every

alternate elections, they would be represented by a Muslim.⁷⁵ To give weightage to Muslims in the second, fourth and subsequent alternate elections also, Regulations further provided that at these elections Muslim landholders of the United Provinces and Eastern Bengal and Assam would elect a second member each.⁷⁶ Thus, during these alternate terms the number of elected non-official Members was to be twenty-seven, and that of the nominated five.⁷⁷ The Muslims were also given the right to compete for other seats on an equal footing with the other communities.

In the process of evolving some ways of satisfying the demands of the nationalist leadership, the Government had made provision for representation of landholders and Muslims. As early as May 1906 Minto had started 'thinking a good deal' of a possible alternative to Congress aims.⁷⁸ As we have seen, his idea of a 'Council of princes' was not well received. Ultimately a specified number of seats in the legislative council were assigned to large landholders not because they could be better representatives of the people but with the declared object of 'supplying the requisite counterpoise' to the 'excessive influence' of lawyers and school masters. According to statistics given in

⁷⁵Home (Public) Resolution No. 4213 promulgating the Indian Councils Act, 1909, 15 Nov. 1909, para 5, *Gazette of India Extraordinary*, 1909.

⁷⁶Legt. Deptt. Notification No. 14, 15 Nov. 1909, *Gazette of India Extraordinary*, 1909, Regulation No.II. Hereafter referred to as Regulations (1909)

⁷⁷In 1912, the seats were redistributed because of the reconstitution of Bengal. The seats assigned earlier to Eastern Bengal and Assam were given to the Legislative Council formed in Bihar and Orissa. One seat was assigned to the non-official members of the Legislative Council of the Chief Commissioner of Assam. In addition, the Muslim landholders of United Provinces and the Muslims of Bengal were given one seat at alternate elections. Thus, the number of seats open to election was increased permanently to twenty-seven. After 1913, when a Legislative Council was constituted in the Central Provinces, the representative for the Imperial Legislative Council from the Central Provinces was elected by this Council and not by the delegates sent by municipal councils and district boards as was done in 1909 and 1912. See Home (Public) A Progs., Nov. 1912, Nos. 108-26.

⁷⁸Minto to Morley, 28 May 1906, Minto Papers (M-1005).

a public circular it was said that the system introduced in 1892 had given to the legal profession a prominence to which it was not entitled. Of the non official members elected or nominated since 1893, forty per cent were lawyers or school masters while landholders numbered 23.5 per cent and business community twenty five percent. It was conceded that the professional classes were entitled to representation commensurate not with their numbers but with their influence. But the Government was not prepared to 'allow them a virtual monopoly of power' ⁷⁹ It seemed sensible to patronize the landholders because they were dependent for their wealth and status on the Government and were, therefore, not likely to work against it. Harcourt Butler, at that time the Deputy Commissioner of Lucknow, wrote to his brother in law who was the J. A. Member and a member of the Arundel Committee on Council Reforms 'We must preserve and develop a landed aristocracy, and work through it if we wish to keep an absolute foot in India, and I do not see how we could carry on without it' ⁸⁰

The novel feature of the Reforms Scheme of 1909 lay in giving separate political identity to a religion. The Muslims were assigned eight definite seats. In addition to five elected and one nominated seat, two landholders' seats were definitely reserved for them. This was specified in the Resolution issued with the regulations with a view 'to fetter the discretion of the succeeding Viceroys' ⁸¹ The discrimination thus created between Muslims and non Muslims became even more invidious because of the method adopted for filling these seats. For open seats a system of doubly indirect elections was introduced. The non official members of district boards and municipal committees sent members to the provincial legislature who in turn elected their representative to the Central Legislature. Thus non Muslim, non landholding citizens had no vote even for election to the Provincial Council. On the other hand provision was made for direct election to seats assigned to Muslims even in the Central Legislature. This distinction hurt

⁷⁹Circular to Provincial Government 24 August 1907, para 9, *Correspondence regarding Council Reform* (Calcutta 1908) v

⁸⁰Butler to H. E. Richards 16 Sep 1906 Butler Papers (18)

⁸¹Note by Muddiman 20 May 1916 Leg. A, Oct 1916 199-202

Why were the Muslims given the special treatment by the rulers? This question had led to an acrimonious and prolonged controversy. It is, therefore, necessary to give the background in some detail.

Background to Separate Muslim Representation

In official and unofficial correspondence, the Government officials had freely talked of the need to create a counterweight to the aims, methods and growing influence of what they described as 'the advanced sections' of Indians. The Morley-Minto reforms were frankly conceived in this context. They also noted with increasing anxiety that an increasing section of Muslim youth was growing sympathetic towards the Congress. When Morley and Minto began to exchange preliminary ideas about constitutional changes, Minto reported that he had been warned that 'before long the Muhammadans will throw in their lot with Congressmen against you'.⁸² Early in 1907 when Gokhale toured north India to counter the influence of the Extremists, British officials were puzzled, even disturbed, by the enthusiastic response of the Muslim nobility of Lucknow and the students of Aligarh College to Gokhale.⁸³ Later Minto reported:

I think that caste and religious difference certainly in respect to the two great groups of Mahommadans and Hindus are showing signs of weakening, and that in the next generation there is a great prospect of the disappearance of the separation of castes and religions in deference to the calls of political aims.⁸⁴

The prospect of Hindus and Muslims, the two major communities in India, creating a common national front was alarming to British administrators. In this situation any strategy that could hold back the Muslims from making a common cause with the nationalists could provide a welcome way out.

⁸²Minto to Morley, 6 June 1906, Minto Papers (M:1005).

⁸³B.R. Nanda, *Gokhale: Moderates and the Raj* (London, 1977), p. 261.

⁸⁴Minto to Morley, 5 June 1907, Minto Papers (M-1007).

The Government did not have to start from the scratch. A section of Muslims under the leadership of Sir Syed Ahmed Khan had distrusted the Congress and was conscious of the disabilities which its demands for indianization of public services, competitive examination system and growth of self-governing institutions on the parliamentary model imposed upon their educationally and economically backward and numerically backward and numerically inferior coreligionists. He feared that the Muslims would not be able to hold their own in elective bodies and competitive examinations and accordingly advised them to remain aloof from the Congress movement. Other Muslim leaders like Abdul Latif and Syed Amir Ali shared his views. Sir Ahmed Khan found enthusiastic supporters among the British, especially the successive principals of Anglo Oriental College at Aligarh—Theodore Beck, W A Archbold and Theodore Morison. The bulk of Muslim community kept aloof from the Congress. The Indian National Congress did not ignore this indifference of the Muslims and made conscious efforts to secure the co operation of this most important religious minority. A Muslim Badrud-din Tyabji was invited to preside over its third session held at Madras and at his suggestion the Congress laid down the self denying ordinance not to discuss at its annual meetings any subject to the introduction of which the Hindu and Muslim delegates as a body objected, 'provided, however, that this rule shall refer only to subjects in regard to which the Congress has not already definitely pronounced its opinion'.⁸⁵ The fathers of the Congress hoped to develop political nationalism in a manner as to transcend religious differences by two mutually contradictory methods of keeping religion out of politics on the one hand and of making conscious efforts to encourage the participation of Muslims in its work. But these efforts did not succeed. As already said, the partition of Bengal was welcomed by Muslims of East Bengal and the anti partition agitation was viewed as a threat both by the British and the Muslims. In this instance the interests of the Muslims and the Raj converged.

The results of the extremely restricted and indirect system of election introduced in 1892 also served to confirm the anxie-

⁸⁵INCP 1888, p. 88

ties of the Muslims. Election results showed that Muslims were able to secure only 12 per cent of the seats as against their numerical strength of 23 per cent in the population of British India. Whatever might be the explanation for this, it was bound to become a sore point with the leaders of the Muslim community. Even Mazharul Haque who was known for his nationalist leanings and was a leading member of the Congress, held that the reason for success of Hindus was not that they were better qualified or that they stood for different principles but that they preponderated in various electorates.⁸⁶ In this situation, when the possibility of widening the electoral machinery appeared on the horizon, it was not unnatural for Muslims to ask for certain safeguards. Gokhale admitted that it was no use telling them that in the interest of the nationality for which they all were striving, Muslims should accept a disadvantageous position.⁸⁷

Morley's announcement in the House of Commons in the summer of 1906 regarding the reform proposals stirred Muslim leaders to action. Mohsin-ul Mulk, a loyal follower of Sir Syed Ahmed Khan and his successor as Secretary of Aligarh College, took the lead in organizing the deputation which met the Viceroy at Simla in October 1906. So far British officials had advised the Muslims to stay away from politics. But at this stage, they backed the efforts of the Muslims to organize themselves for political purposes. The Anglo-Indian press, too, openly lauded their efforts.⁸⁸

The memorial presented to the Viceroy on 1 October 1906 by thirty five Muslims led by the Aga Khan, the head of the Ismaili sect, has rightly been described as the highest common denominator of Muslim demands for it included almost every demand that could possibly be made on behalf of the Muslims vis-a-vis the Hindus. The deputationists did not deny that they had 'many and important interests in common with our Hindu fellow countrymen'. Still, they insisted that the Muslims were 'a distinct community, with additional interests of our own which are not shared by other communities.' With regard to the Imperial Legislative Council they suggested that the pro-

⁸⁶ILCP., 24 Jan. 1911, pp. 148-9.

⁸⁷*Ibid.*, pp. 146-8.

⁸⁸Butler to H.E. Richards, 16 Sep. 1906, Butler Papers (18).

portion of Muslim representatives should not be determined on the basis of the numerical strength of the community, and that for the purpose of choosing Muslim members, special electorates consisting only of Muslim landholders, merchants lawyer and representatives of other important interests should be constituted⁸⁹ On 30 December 1906 All India Muslim League was founded at Dacca with the aim of promoting amongst the Muslims a sense of loyalty to the British Crown and protecting and advancing Muslim interests

The Viceroy and his advisers took 'infinite trouble' to prepare reply to the address of deputation and practically conceded all their demands Minto said

I am entirely in accord with you I am as firmly convinced, as I believe you to be, that any electoral representation in India would be doomed to mischievous failure which aimed at granting personal enfranchisement regardless of the beliefs and traditions of the communities comprising the population of this continent I can only say to you that the Mahomedan community may rest assured that their political rights and interests as a community will be safeguarded in any administrative reorganization with which I am concerned⁹⁰

These assurances went a long way in raising the expectations of the Muslims Even Morley blamed Minto for setting the troublesome ball rolling' and commented in a moment of desperation 'I respectfully remind you once more that it was your speech about their extra claims that first started the Mahomedan hare'⁹¹

What did the Government of India commit to the Muslims? Or, in other words, what did the reply to the deputation amount to? There can be no better proof of the ambiguity and ambivalence of the Viceroy's stand than the fact that these commitments were interpreted differently by different people at the

⁸⁹Address of the Muslim Deputation, 1 Oct 1906, Morley Papers (35)

⁹⁰Earl of Minto, *Speeches* (Calcutta, 1910), p 66

⁹¹Morley to Minto, 6 Oct 1909, Minto Papers (M 1009)

helm of affairs in accordance to their own perception and the exigencies of the situation they faced. Risley, in a note written in January 1909, interpreted the pledges contained in the Viceroy's reply to mean that the Muslims were to have separate electorates, that representation was to be proportionate not merely to their numerical strength but also to their political importance and that effect was to be given to this principle not only in legislative councils but also in local bodies by which the councils were to be elected.⁹² Morley apparently did not interpret the Viceroy's reply in these terms. This was the reason why he put forward the scheme of mixed electoral colleges without consulting the Government of India in a public despatch in which seats were to be assigned strictly in proportion to numbers and the mechanism of separate electorates was altogether discarded. As we shall see, the Government of India reacted sharply to what it described as a volte face and saw to it that this was not well-received. Later when the scheme did not seem to be producing the expected results, and in spite of separate electorates when, in 1915, Hindus and Muslims seemed to be drawing nearer, Harding's Government advised against the policy of perpetuating special protection to the Muslims. It pointed out that all that the promises given to Muslims required was that where they were in a minority in a province, their representation on the legislative councils should be somewhat higher than the number which a strict numerical proportion would give them.⁹⁴

During 1906-10, however, the self-styled *ma-baap* acted with fostering care and persisted with shylock like tenacity to exhort the full pound of flesh for their wards. The reply given by the Viceroy to the Deputationists in 1906 itself was used as almost the sole justification for treating the Muslims liberally. During the debate on the Indian Councils bill in the House of Commons in April 1909 Buchanan, the Under Secretary of

⁹²Note by Risley, 5 Jan. 1909, Home (Public) A Progs., Feb. 1909, 205-44.

⁹³S.S. to G.G. in C., 27 Nov. 1908, paras 12 and 13, Morley Papers (33).

⁹⁴Despatch to S.S. regarding recognition of India's services during the war, 24 Nov. 1916, para 49. Home (Political) A Progs., Dec. 1916, 358.

State for India, said 'From that promise we cannot go back, we ought not to go back and we will not go back' ⁹⁵

When the Muslim deputation met the Viceroy, a special committee of the Executive Council headed by A T Arundale, the Law Member, was already at work. It had been appointed on 15 August 1906. It is significant that the terms of reference to this committee did not include consideration of claims of Muslims. Minto asked the committee to guard the important interests in India which included the following

- (a) The interests of the hereditary nobility and landed classes who have a permanent stake in the country,
- (b) the interests of the trading, the professional and agricultural classes,
- (c) the interests of the planting and European commercial community, and
- (d) the interests of the stable and effective administration ⁹⁶

In its report, the committee, however, made a pointed reference to the claims of the Muslims and recommended that in addition to a small number of Muslims who might be able to secure elections in the ordinary manner, it was necessary to assign a certain number of seats to them and that these seats should be filled by special Muslim electorates ⁹⁷. The Government accepted these recommendations.

When these recommendations were referred to provincial governments in the circular of 21 August 1907, they almost without exception, pointed to the difficulties of framing an electorate consisting of adherents of a particular religion and almost universally condemned the proposals ⁹⁸. For example, the Government of Eastern Bengal and Assam wrote 'In Eastern Bengal, where the Muhammadan voters largely exceed

⁹⁵*House of Commons Debates*, 1 Apr 1909, col 499. Also Arundel to I

in C to SS, 21 Mar

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Oct 1906, paras 58-62,

Ibid

⁹⁸See *Correspondence Regarding Councils Reforms*, vol 1, parts I&II

the Hindu voters, it is not necessary to adopt such a measure in order to protect the Muslim voters, and it does not appear that the Hindus are at all desirous of such a measure.⁹⁹ The Government of Bombay wrote that the Muslims were so scattered that common organization for electoral purposes was impracticable.¹⁰⁰ H.H. Risley, who prepared a summary of these reports on the basis of which the despatch of 1 October 1908 was later sent to the Secretary of State, preferred to assume that all provincial Governments approved of the provision for separate representation.¹⁰¹

The question of evolving the best means of representation on the basis of religion gave rise to a prolonged controversy. Broadly speaking, three alternatives were put forward:

- (1) Mixed electoral colleges based on the principle of proportional representation.
- (2) Separate electorates conferring exclusive representation, Muslims not voting in any mixed electorate.
- (3) Separate electorates supplemented to the full extent through mixed electorates or by nomination where they could obtain a fair share of elective seats.

The first plan was announced by Morley without consulting the Government of India in advance. His aim was to preserve harmonious relations with Hindus and Muslims. He held that no pledge had been given of separate representation on all constituencies and that separate representation would necessitate having separate registers for the adherents of one particular religion which he deprecated. He also did not approve of the

⁹⁹Govt. of East Bengal and Assam to Govt. of India, 14 March, 1908, No. 946C. Also letter from the Govt. of U.P., *Ibid.*, Part II.

¹⁰⁰Govt. of Bombay to Govt. of India, 16 Mar. 1908, Home (Public A Progs., Oct. 1908, 116-146.

¹⁰¹Other historians have also noticed this discrepancy between the the actual facts and assumptions made by officials. R.E. Robinson says 'Certainly, the U.P. Government assumed that the Muslims were doing badly. . . (although) the overall position of the Muslims was much the same as before.' Gallagher, Johnson and Seal (ed.), *Locality Province and Nation, Essays on Indian Politics, 1870-1940* (Cambridge, 1973), p. 99.

idea of giving to Muslims the right to vote in general electorates in addition to separate electorates though he had no objection to giving special privilege to property and education. He also pointed out that this would be resented by other classes of population.¹⁰² Morley's scheme of electoral colleges was to be operated as follows. In each electoral area an electoral college was to be established, the members of which were themselves to be elected in communal proportions (that is to say, a fixed number of Hindus and Muslims corresponding to the numerical strength of these communities in the area concerned) by a joint electorate composed of landowners paying a certain amount of land revenue, members of rural or subdivisional boards, members of district boards and members of municipal corporations. These electoral colleges would, in their turn, elect their representatives to the provincial councils, the members being free to vote for any candidate, but the seats having been previously allotted on a communal basis.¹⁰³

The All India Muslim League, which held its annual session at Amritsar soon after, denounced the scheme as a betrayal of the Muslim community while its London branch launched a fierce campaign against it. They received warm support from some newspapers and retired officials in London. In fact the reaction of British officials was more violent than that of the Muslims themselves. The Britishers were mainly worried about the effect of this scheme of territorial representation on the position and loyalty of the Muslims. Referring to the sharp reaction of T. Morison, Morley wrote that he would rather have no reforms at all than such as might be taken to place the Muslims at a disadvantage.¹⁰⁴ H. H. Risley, the Home Secretary, who had been doing the work of 'boiling down all reform materials', was asked to prepare a note on the Secretary of State's proposals. He practically argued that this scheme amounted to undoing of all the efforts to create a counterpoise to 'the increasing influence of Hindu politicians' who domi-

¹⁰² *Debates on India Affairs House of Lords Session 1909* (London, 1909), Speech by Morley, 23 Feb 1909. Also his correspondence with the Governor General, Morley Papers (35).

¹⁰³ S. S. to G. G. in C., 27 Nov 1908, para 11, Morley Papers (33).

¹⁰⁴ Morley to Minto, 20 Aug 1909, Minto Papers (M 1009).

nated the Congress.¹⁰⁵ He described the scheme as 'most novel and intricate' and in the letter circulated to local Governments he wrote: 'It is to be feared that the immediate consequence will be that for a considerable time the electoral system will be in the hands of the professional wire-pullers.'¹⁰⁶ Minto also wrote: 'As to the electoral college scheme, I am convinced it is entirely unworkable, unjust in regard to Muhammadan expectations.....Under no circumstance could I bring myself to agree to it.'¹⁰⁷ In the letter sent to the Local Governments, all possible apprehensions and objections were stated and the provincial Governments were merely asked to report whether the apprehensions were well founded.¹⁰⁸ The reaction of all the provincial Governments was a typically bureaucratic one. They by and large argued that it would add 'an unnecessary complication to a matter already sufficiently complicated. Even before the replies from the Local governments were received H. Adamson, the Home Member, noted that with the provincial government 'at our back' they would be able to completely 'damn' the scheme in the eyes of Morley before he 'had another opportunity of speaking in Parliament.'¹⁰⁹ In this storm of protest, voices of those who favoured this scheme were submerged. Faced with the opposition of the Government of India, of Muslims, and of conservatives in Britain, Morley hastily retracted his steps. 'I do not think it was a bad plan' he stated in the House of Lords, 'but it is no use, if you are making an earnest attempt in good faith at a general pacification, out of parental fondness for a clause interrupting that good process by sitting too tight.'¹¹⁰

The London branch of the Muslim League and some sections of Indian Muslims expressed themselves in favour of exclusive electorates for Muslims, Muslims not voting in any mixed

¹⁰⁵Note by Risley, 5 Jan, 1909, Home (Public) A Progs., Feb. 1909, 205-44.

¹⁰⁶Circular to Provincial Governments, 9 Jan. 1909, para 4, *Ibid.*

¹⁰⁷Note by Minto. p. 17.

¹⁰⁸Circular to Provincial Governments, 9 Jan. 1909, paras 4 and 5, *Ibid.*

¹⁰⁹Note by Adamson, 11 Jan. *Ibid.*

¹¹⁰Morley's speech in House of Lords, 23 Feb. 1909, *Debats on Indian Affairs*, House of Lords, sessions 1909 (London, 1909).

electorates. They argued that the presumption on which the Government of India had acted that some Muslims were likely to enter the Legislatures through elections 'in the ordinary manner' was not correct and that the five seats assigned to them (in Eastern Bengal and Assam, Bengal, U P, Punjab and alternately Madras and Bombay) were too few.¹¹¹ They in fact concentrated on exclusive electorates so that they could justify claims for more seats. In the event of his proposal for mixed electoral colleges being rejected, Morley was ready to favour this scheme because it dispensed with the eventuality of giving double votes to the adherents of a particular religion.

Minto described these demands of the London Branch of the Muslim League as 'very wrong headed'. He suggested that the Muslim leaders might be invited to Simla for discussion with officials. In the meanwhile many nationalist leaders expressed themselves in favour of conceding exclusive Muslim electorates as well as full right to the Muslims to participate in other elections. The most prominent among these was Gokhale. He was perturbed by the divisive tendencies of Indian politics. In putting forward the case for treating the Muslims generously he was inspired by the noble aim of making the Muslim join the mainstream of political activity and thus prevent the creation and accentuation of divergencies between Indians. It was he who converted Ali Imam, the chairman of the Muslim League Committee to report on this question and his Lieutenant Mazharul Haque to the idea of Muslims participating in general electorates as well.¹¹² Later when some Hindu members particularly Malaviya and Basu, expressed their consternation at the success of many Muslims in the first elections, Nawab Abdul Majid said tauntingly 'It was on their crying, their shouting that the Government, besides establishing separate electorates established mixed electors also'.¹¹³ Finally, Sir Syed Ali Imam put forward claims for ten seats for Muslims six on the basis of their numerical proportion, two on that of

¹¹¹Address of the Deputation of the London Branch of the Muslim League presented to Morley on 25 Jan 1909, *Home (Public) A Progs*, Aug 1909, 182-4.

¹¹²See Speech by Haque, ILCP, 24 Jan 1911, pp 148-9.

¹¹³*Ibid*, pp 139-40.

political importance and two to be left for contesting in open elections.¹¹⁴ In the despatch of October 1, 1908 the Government of India had written that the claims of Muslims would be adequately met if four elected seats were assigned to them.¹¹⁵ But in the final scheme the Government accepted the claims put forward on their behalf by the Muslim League and assigned right fixed seats to them in addition to the right to compete in all other elections. Two seats were assigned to them by making a special provision not in the table giving the details but in its explanatory sections 'with a view to disarming increasing Hindu accusations of favouritism to Muhammadans'.

It is interesting that at the Simla meeting of 26 June 1909 between Muslim leaders and Government officials, Shafi and S. A. Imam asked for separate representation of Muslims in Muslim majority provinces of the Punjab and Eastern Bengal and Assam because Muslims were backward in education and wealth in these provinces. Rahimtoola asked for a seat for Muslims of Bombay where they formed only twenty-one per cent of the population on the ground that a section of the Muslim population was 'foremost in education, trade, industry, commerce and landed interests'.¹¹⁶ The Government obliged both of them. Muslims were given one seat in Madras also though they formed only 6 per cent of the population. Minto foresaw that it would 'certainly raise Hindu protests'.¹¹⁷ Minto was fully satisfied with the final provisions. 'I consider Muhammadans are fairly and liberally dealt with' he wrote.¹¹⁸ It is significant that even in the provincial Legislative Councils where non official majority was provided for in order to 'ensure that the official members will carry a contested question against the Hindus and their allies', care was taken to see that the number of Muslims together with non-official Europeans

¹¹⁴Minute of the meeting between the members of the Executive Council and Muslim League leaders, 26 June 1909, Home (Public) A Progs., Aug. 1909, 182-4.

¹¹⁵G. G. in C. to S.S., 1 October 1908, para 30, Morley Papers (33).

¹¹⁶Minute of the Meeting between the members of the Executive Council of the Governor-General and Muslim leaders, 26 June 1909, Home (Public) A Progs., Aug. 1909, 182-2.

¹¹⁷Note by Minto, 14 May 1909, *Ibid.*

¹¹⁸Minto to Clarke, 15 Feb. 1910, Sydenham Papers (50837).

exceeded that of all other non official members¹¹⁹ The apparent assumption behind this type of provision was that the Muslims would support all Government measures But this assumption did not prove to be correct

Introduction of Elections

Throughout the *correspondence on the Reform Scheme*, the Government of India was banking on a continuation of the system adopted in 1892, that is, nomination by the Government on recommendation of certain specified bodies Even as late as February 1909 the file dealing with the question was entitled "Regulations for the nomination of members of local legislative councils"¹²⁰ It was about this time that the Government of India sensed that Morley wanted to introduce elections in the English sense of the term On 18 January 1909 Minto wrote 'I had not gathered from anything Secretary of State had written or said that he meant to push "election" in the English sense of the word'¹²¹ He insisted that the question should be considered from the point of view of an inflammable country like India But Morley was adamant He wrote 'Any system of representations that makes seats in the Council a matter of sufferance can no longer be defended'¹²²

Finally, Minto gave in not just because of Morley's insistence but because he realized that opposition to pure elections in official circles was not very strong and because the "public" and the House of Commons were insisting upon it¹²³ The Governor General, however, added that they would have to depend on a careful creation of electorates and list of disqualifications As we shall see, the Government of India made a tenacious effort in this direction However, the fact that the members were allowed to occupy seats by virtue of election rather than nomination by the Government was significant *Lansdowne said in the House of Lords*

¹¹⁹See note and tables by H Adamson, 23 June 1909, Home (Public) A Progs, Aug 1909 182 4

¹²⁰"Regulations for the nomination of members of local legislative councils" A P Progs Feb 1909, 205 244

¹²¹"I had not gathered from anything Secretary of State had written or said that he meant to push "election" in the English sense of the word" Minto Papers (33)

¹²²"Any system of representations that makes seats in the Council a matter of sufferance can no longer be defended" Morley into Papers (M 996)

In the eyes of public in India there is all the difference in the world between a man who comes in with the popular vote behind him and nothing else, and the man who comes into the Council having been elected by his neighbours or fellow countrymen, but whose election has been sanctioned or approved by the Government.¹²⁴

Two contemporary sections who had diametrically opposite outlooks and aims, the conservative opponents of Morley in the Parliament and the moderates in India thought that the longterm effect of the Morley Minto scheme would be the establishment of representative institutions and self-government in India which would mean self-government for Indians. This notion expressed the worst fears of the former and the fondest aspirations of the latter. The position was best stated in a letter written by Morley to Minto after a meeting with Gokhale:

Gokhale made no secret of his ultimate hope and design—India to be on the footing of a self-governing colony. I equally made no secret of my conviction that for many a day to come—long beyond the short span of time that may be left to us—this was a mere dream.¹²⁵

This comment gives not just Morley's assessment of what Gokhale said but the outlook of the two sections interested in the Reform scheme viewing it from the two different sides of the pole—the bestowers and the receivers. It is significant that Morley did not deny what Gokhale said. He merely pushed the date forward.

Reception of the Reform Scheme

The Reform Scheme was critized in the House of Lords in most unambiguous terms where ex-Viceroy, ex-governors and ex-civil servants made almost a united front against its promoters. Curzon made his mark as the most uncompromising

¹²⁴House of Lords Debates, 4 Mar. 1909, cols. 170-1.

¹²⁵Morley to Minto 2 Aug. 1906, Minto Papers (M-1006).

critic. He did this in the name of dumb masses of India. He argued that they wanted 'not representative government but good government, and if you could get to the bottom of their hearts you would find that they identify good government with government by Englishmen' ¹²⁶ He described the 'unnecessarily swollen' legislative bodies as 'parliamentary bodies in miniature' which would have all the 'drawbacks with which we in this country are familiar' and only 'small microscopical advantages'. He also said that Morley was putting unnecessary burden on the officials who were primarily administrators, secondarily writers and were not speakers at all. He criticized the attempt to introduce any system of elections as 'profoundly unsuited to the Indian system and the Indian character' ¹²⁷

One presumption behind criticism of the Reform proposals in the British Parliament was that its liberal features had been imposed upon unwilling bureaucrats in India. But the Government of India was an equal participant in all deliberations and decisions connected with the scheme. The Indian Civil Service did not expect that the proposals would increase the efficiency of administration. Faced with increasingly vociferous denunciation of and opposition to their rule, the officials had, by and large, become convinced that some radical departure in their politics was called for. Total disregard of Indian opinion under Curzon had proved a costly mistake and repression alone had failed to produce desired results. Some conciliatory gesture seemed necessary. In fact there was remarkably little resistance to proposals regarding enlargement of legislative councils, increase in its functions or introduction of elections. Once the ball was set rolling the questions that preoccupied them related to evolving a scheme which could enlarge the basis of support to the Raj by winning over the widest possible spectrum of the population. Besides trying to win over the moderate section of the nationalist leadership, an undisguised attempt was made to bolster the conservative landed interests and other loyalist groups as a counterpoise to these moderates. Minto was, in

¹²⁶House of Lords Debates, 23 Feb 1909, cols 37-78

¹²⁷Ibid

fact, 'bewildered by the alacrity with which the Madras Congress of 1908 welcomed the reform proposals. "Our great object was," he wrote to Lansdowne, "to ensure the representation of classes we thought had hitherto been left out in the cold and who represented a real solid state in the country. In fact I always thought our proposals were very conservative in many respects and was surprised at the good reception they met with from Congress circles."' ¹²⁸

After the Secretary of State insisted on 'elections pure and simple', the government officials hoped to rely on their power of framing regulations to ensure that 'inconvenient' men did not enter the Legislature. If the manner in which the Reform Scheme was received at the next session of the Congress at Lahore is taken as the criterion, the bureaucrats admirably succeeded in their task. At this session the regulations were criticized in most unambiguous terms and the whole blame for spoiling the scheme was laid at the door of the bureaucrats. Moving Resolution IV, Surndranath Banerjea pointed to the 'deep and profound dissatisfaction of the educated community' and added, 'We are relegated to the position of insignificance in those councils which owe their very being to our patriotic labours.' Minto was, however, fully satisfied with the composition of the first reformed Legislature. ¹²⁹ Many British observers also held that the Reform Scheme would take wind out of the sails of the Congress. Chirol noted: 'It is quite clear to me that, if ever the Indian National Congress can have served any useful purpose' it can do so no longer, now that we have the enlarged councils, and I believe that the Indian National Congress will steadily lose any importance it has ever had, unless it goes in for some other form of activity'. ¹³⁰

The Anglo-Indians viewed the Reform Scheme with consternation and made no attempt to conceal it. At the time of his retirement Minto did not receive the customary farewell dinner in Calcutta from the mercantile community nor from the Byculla club in Bombay. The Anglo-Indians, both official and non-official, were pleased, however, at finding a new ally

¹²⁸Minto to Lansdowne, 18 Mar. 1909, Minto Papers (M-996).

¹²⁹Minto to Clarke, 15 Feb. 1910. *Ibid.* (M. 986).

¹³⁰Chirol to Hardinge, 12 Jan. 1911, Hardinge Papers, V. 92.

in the process of working out the Reform Scheme. In patronising the Muslims, they showed a clear appreciation of the fact that the Muslims would be fighting their battles against the rising spirit of nationalism in India. This is what explains their sharp reaction to Morley's scheme of electoral colleges. Lovett Fraser, the Editor of the *Times of India*, admitted candidly 'we have far more to lose than the Muslims by an entente between Islam and Hinduism'¹³¹

The two 'stable and conservative elements' that the Government of India had sought to reconcile and win over were the big landholders and Muslims. The landholders were grateful to the Government. Sir Bijaya Chandra Mahtab, the Maharaja of Burdwan, a servile landlord who had erected a Curzon Gate at the height of Swadeshi movement, assured the officials that they would realize that this was 'one of the wisest step they have taken in this country'. Nawab Abdul Majid volunteered the reasons for this feelings. Their advice will be sincere and their advice will go in order to make the Government in this country more stable and more permanent than the advice of those who have no stake in the country'¹³²

The leaders of the Muslim League were also fully satisfied with its provisions. In their address of October 1, 1906 they had asked for weightage. But they were given, in addition, separate electorates and right to compete with other communities on an equal footing. The primary concern of the leaders of the League was to strengthen the position of their community. They were able to achieve this objective by exploiting the eagerness of the Moderates to have these Reforms and the apprehensions of the Anglo Indians about their long term effects on the future of British rule. But there were many Muslims who believed that Hindus had just grievances and foresaw that these provisions might retard the process of bringing together of Hindus and Muslims.¹³³ One of them, M Haque, said in the Legislature that he was 'not enamoured of separate electorates'¹³⁴. It is notable that preparing electoral

¹³¹Lovett Fraser to Dunlop Smith in M Gilbert, *Servant of India* (London, 1966) p 202

¹³²ILCP 24 Jan 1911, p 141

¹³³See Chap II

¹³⁴Imperial Legislative Council Proceedings (Hereafter referred to as ILCP), 24 Jan 1911, p 148

rolls even for Muslims, the Government showed distrust of educated Muslims and put a premium on factors other than education. While all passed mauvis were given right to vote in election to many provincial legislatures, Muslim graduates were not given a right to vote unless they were graduates of five years' standing. Muslims themselves complained about it.

Amongst the Congress leaders, the Government knew that it could never hope to reconcile the Extremists. The acceptance of any concession doled out by the Government was repugnant to their creed. Gokhale rightly commented that the Extremists were not ready 'to descend to such small matters as reform of the Legislative Councils.'¹³⁵

In 1906, when the Arundel Committee was appointed to frame reform proposals, Gokhale the President of the 1905 Congress session and a man known for his 'Moderate' leanings was asked to submit his suggestions to this Committee. Gokhale put forward modest proposals asking for the extension of the Central Legislative Council to thirty, accepting a majority of officials thereon. As to functions he asked for opportunity for extended debate on financial matters.¹³⁶ Given these demands, the Moderate leaders had no grounds for complaint because even the first tentative proposals of the Government of India as outlined in the public Circular of 24 August 1907, went far beyond anything Gokhale had envisaged. After the split at Surat, though the moderates, had captured the Congress, they remained conscious of their declining popularity. Only if they could show some tangible achievements could they hope to regain their credibility. A liberal dose of constitutional changes could turn the scales in their favour. Therefore, they made strenuous efforts to popularise reform proposals in India and carry on a vigorous propaganda in Britain with a view to get as much as possible in shortest possible time. They also made special efforts to avoid controversial subjects at the 1908 session of the Indian National Congress. Expressing gratitude for the Reform Scheme, Surendranath Banerjea described it as the crowning triumph of constitutional agitation.' The President of

¹³⁵Gokhale to Wacha, 22 Sep. 1907, Gokhale Papers, F. 203/96.

¹³⁶Note by Gokhale, undated, *Report of the Councils Committee and Connected Notes* (Calcutta, 1906).

the session, Rash Behari Ghose even said 'In a word we shall now have something like a constitutional government in the place of an autocratic and irresponsible administration'¹³⁷ There were others, however, who showed greater perception and did not fail to point out that the proposed changes conceded only increased opportunities of influencing administration and that no power was transferred to Indians. But, on the whole, the moderate leaders made an effort not to spoil this good process by exposing its flaws.

It is in this context that the reactions of the Moderates to special favours shown to the Muslims has to be appreciated. It may be noted that the full implications of the Deputation of October 1906 were not clear. They did not even object to the claims put forward by Muslims on grounds of political importance of their community. It was only when the question of distributing the very limited number of seats came up, that voices opposing special claims of Muslims were raised. These appeared still more invidious and irritating to non-Muslims when they were excluded from the electoral rolls. Thereafter the Reform proposals were criticized by moderate leaders. At this stage it was clearly said in the nationalist press and from public platforms that the Reform scheme had given the opportunity only of criticizing administration. Madan Mohan Malaviya subjected the scheme to minute criticism in his presidential address to the Indian National Congress held in 1909. *The Bengalee* described the preferential treatment accorded to the Muslims on the basis of their religion as 'political *jezia* levied upon the Hindus'¹³⁸. In fact, the non-Muslim press criticized the regulations mercilessly.

In view of the fact that the origin of Pakistan is often traced to introduction of separate electorates for the Muslims and that the moderate leaders condemned the Reform Scheme on these grounds at that time, the question why it was not boycotted comes up. But such a course was not advocated either from the Congress platform or outside. The reasons seem obvious. The Moderates needed a booster to salvage their sinking boat of popularity. They had been hardpressed to offer a worth-

¹³⁷INCP, 1908, p. 36

¹³⁸*The Bengalee*, 5 Jan. 1910

while alternative to extremist onslaughts. To think of rejecting whatever little they had been able to procure from the Government would have been politically suicidal. Surendranath Banerjea and his group did boycott the elections in Bengal by way of protest against Government's failure to undo the partition of Bengal. But they found it difficult to maintain their influence. Another reason was that the Moderates had not, on the whole, approved of the method of boycott even in the face of the act of most blatant injustice and disregard of public opinion, namely the partition of Bengal. Moreover, they had always been advocates of evolutionary changes and of giving every concession a trial before asking for more. Gokhale voiced this tenet when he said: 'None of us wants to be satisfied with things as they are, but we must prove that we can bear these responsibilities, before we ask for more.'¹³⁹ Once they entered the Legislature, they sat down to work with great earnestness and some hope.

¹³⁹INCP, Madras, 1908, p. 49.

Chapter III

Elections and Participation

Under the Morley-Minto scheme, for the first time an institution was created in which some Indian members occupied seats on the legislative body as *representatives of a section of the people* under regulations which bound both the Government and the people. It is true that the aim of the scheme was not to give training to the Indians in the art of self-government or to share power with them. It is also true that the size of the legislature was very small, that Indians were in a perpetual minority in the Central Legislature, that they represented extremely small electorates and that these electorates were designed to represent different interests and communities. Nevertheless a study of the election regulations and the personnel of the Central Legislature is rewarding for many reasons. The elections were held under regulations which bound both the Government and the intending participants. It is interesting that although at times the officials tried to so interpret the rules as to get more agreeable members, quite often, because of political compulsions, they were not able even to exercise the powers which they legally enjoyed. Secondly, although the Legislative Council was designed as an assortment of heterogeneous elements, the members showed considerable homogeneity in their legislative

behaviour. Moreover, the Morley-Minto reforms became memorable for the favoured treatment given to the Muslims. In this chapter an attempt has been made to study the conditions under which elections were conducted, the type of men who were returned by various electorates and the effects of separate electorates, especially Muslim electorates on the behaviour of members and on Indian politics.

TABLE I
Size of the Legislative Bodies

<i>Legislative Council formed in 1893</i>		<i>Legislative Council formed in 1910</i>	
Ex-officio members	7	Ex-officio members	7
Additional Official members	9	Additional Official members	28
Nominated non-official members	2	Nominated non-official members	6
Non-officials nominated on the recommendation of various bodies	5	Elected members	26
Total	23		67
Total with Viceroy	24	Total with Viceroy	68

As already said, there was more than four-fold increase in the size of the non-official section. As Table 1 shows, while under the Indian Councils Act of 1892 the number of non-official members was seven, in 1909 it was thirty-two of which twenty-six were elected members. There were four broad categories of members—the ex-officio members, the additional official members, nominated non-official members and elected members.

The Ex-officio Members

The members of the Executive Council of the Governor-General occupied seats on the Legislative Council by virtue of their office and they were known as ordinary members. They formed the nucleus of the Legislative Council and constituted

its permanent element¹ The Commander in Chief was an extraordinary member of the Executive Council and was, therefore, a member of the Legislative Council also Since 1871, the head of the province in which the meetings of the Legislative Council were held, sat in the Council as an ex officio member²

Ever since the appointment of an 'Additional' Legislative Member in 1834 the relationship between that Member and the other 'ordinary' members of the Council had become a subject of controversy arising from a difference of status as well as functions But the homogeneity of the Executive Council remained unaffected because of its dominant strength as well as its indivisible responsibility to the Governor General The situation changed after the enlargement of the Legislative Council by addition of non official members under the Indian Councils Act of 1861 Some Members of the Executive Council began to insist that as Members of the Legislative Council, they were not bound to support the line of action adopted by the Government of India in the Legislative Council They pointed out that they would work to further the power and authority of British rule, the maintenance of which was their primary concern and, therefore they should not be forced to act one way or the other³ The Government of India, on the other hand, insisted that frequent and open differences of the opinion between the Members of the Executive Council would bring discredit to the administration⁴ The question however remained unresolved until 1892 The decision to enlarge the Council of the Governor General under the Indian Councils Act of the same year further underlined the need to maintain a show of harmony amongst the members of the Executive Council In 1895, H H Fowler, the Secretary of State, set the

²³¹ Vict c 3, s 3, Lieutenant Governors of Bengal and Punjab and later the Chief Commissioner of Delhi acted as the members ex-officio

³For example see Minute by Durand, 17 Apl 1866 *A Selection of Papers relating to the Constitution and Functions of the Indian Legislative Councils* (Calcutta, 1886), p 265

⁴*Ibid.*, see correspondence on the subject

controversy at rest by laying down that in spite of the differences that existed between the position of the Government in Britain and the Government of India, the principle of united and indivisible responsibility was as much applicable to India as to Britain.⁵ This principle held good during the period following.

Additional official Members

In addition to the *ex-officio* members, the regulations provided for the nomination of twenty-eight other officials to the Legislative Council. For this purpose, the old practice of asking the provincial governments to send one of their officials was continued. The rest of the members were nominated from amongst the officials of the Government of India. The Government of India had anticipated that the enlargement of the Legislative Council and the increase in its functions would lead to protraction of debates and would entail larger encroachment upon the time of the members. Therefore, it took care to ensure that only those officials be nominated who could be easily spared from their usual duties. In 1912, G.H.B. Kanrick, the Advocate-General of Bengal, who had been nominated to one of the official seats, was asked to resign because it was felt that he could not absent himself from Calcutta for long periods of time.⁶ The Government of India found it increasingly difficult to spare officials from their regular work for participating in legislative work. A balance had, therefore, to be struck between political compulsions and administrative requirements. As a way out, the Government of India had proposed to carry on the work of legislation with less than the full quota of official members with the powers to increase their number so as to convert the minority into a majority as and when required.⁷ But the Secretary of state had not agreed.⁸ He argued that the work in the Legislature had so great a bearing upon the maintenance of

⁵S.S. to G.G. in C., Leg. No. 21, 26 June 1895, para 4, Leg. B. Progs., July 1895, 180.

⁶Note by Vincent (Secy, Leg. Deptt), 17 Sep. 1912, Leg. A Progs., Apl. 1913, 35-132.

⁷G.G. in C. to S.S., Home (Public) No. 21, 1 Oct. 1908, para 21, Morley Papers (33).

⁸S.S. to G.G. in C., Public No. 193, 27 Nov. 1908, para 22, *Ibid.*

British supremacy in India that it was essential to maintain official majority ⁹

Finally, the officials nominated were the Chief of Staff because the Commander in Chief could not attend all meetings, Advocate General of Bengal to provide legal talent among the officials, the president of the Railway Board to represent the interests of the railways, the Inspector General of Excise because of the recurring question of excise duties, the Government Solicitor, the Directors General of Post Offices, Telegraphs, Education and the Indian Medical service, and all Secretaries to the Government of India ¹⁰ It is interesting to note that even in nominating an official, the likely reactions of the public were taken into consideration. For example, from 1913 onwards, an official was nominated from the North West Frontier Province because the province had been in the public eye and it was expected that questions relating to this province would be raised in the Legislature ¹¹ Similarly in 1913, the Standing Counsel was not nominated because the post was held by a Muslim, Syed Ali Imam, and it was felt that his nomination would be ascribed to a desire on the part of the Government to favour that community ¹² These members were nominated by name and not by their official designation to make it clear that they were not *ex officio* members ¹³ Their tenure was not fixed. They could be asked to resign as and when needed.

An important development that followed from the revised constitution of the Legislature was that there was a marked change in the role of the official members from the provinces. In 1895, when it was laid down that all members of the Executive Council would have to support the Government, the position of the other official members of the Legislative Council was left undefined. Since 1854 official members from the provinces had

⁹*Ibid*

¹⁰See Leg. A Progs., May 1910, 85-120

¹¹Note by S. A. Imam, 16 Dec 1912, Leg. A Progs., Apr 1913, 35-132

¹²Note by S. P. Sinha, 29 Nov 1909, para 3, Leg. A Progs., May 1910, 86-120

¹³Minute by H. A. Stuart (Secy., Home Deptt.), 28 Oct 1909, para 10, *Ibid*

been acting as mouthpieces of the provincial governments. When financial proposals came up for consideration, it was not unusual for official members to be as much divided amongst themselves as the non-official members. Even after 1909, these members tried to play the same role. For example, in 1910, M.W. Fenton, the official member from the Punjab, concluding his budget speech, said: 'It is customary and in accordance with precedent to allow to the official representatives of the provinces a certain amount of licence and latitude in pleading for their provinces in these budget debates.'¹⁴ But after 1909, in view of the reduction of the official majority to the minimum, the Government of India refused to give to official members the same latitude in the budget debates as was allowed earlier. It demanded active support of provincial official members against attacks of the non-officials.¹⁵ This decision was taken in spite of strong opposition from the provincial governments. The Government of Bombay described this ruling as 'a revolution in constitutional procedure'.¹⁶ The convention by which the official Members invariably supported the Government was very rigidly observed.¹⁷ This signified increasing polarization between the official and the non-official points of view. During the period that followed the right of the non-official section to represent provincial interests was fast being recognized.

Another development, partially a by-product of the above, that became noticeable during this period was that the provincial governments did not send the best of their officials to the Central Legislature. They preferred to retain services for the provincial councils. In fact, they tended to look upon the Central Legislature as a refuge for the less efficient official. In 1916, the Governor of Bengal suggested the nomination of J.C. Cumming who had not been keeping good health. His idea

¹⁴Speech by F.W. Fenton, ILCP, 29 Nov. 1910, p. 642.

¹⁵Home Dept. circular to Local Governments, Nos. 3002 to 3007, 30 Sep. 1911, Leg. A Progs., Sep. 1911, 34-9 (Confdl.). See also Home (Public) Dep. Progs., Mar. 1912, 43 (Confdl.).

¹⁶Govt. of Bombay to Govt. of India, No. 190M, 28 Oct. 1911, para 3, Home (Public) B Progs., Sep. 1912, 127-9.

¹⁷See Memoranda by H.E. the Viceroy upon questions likely to arise in India at the end of the war, Oct. 1915, Hardinge Papers (116).

tians, it was argued, were too backward and poor to deserve it.²³ To the remaining seats, anyone could be nominated. In 1910, R.N. Mudholkar was nominated in order to redress the grievances of the people of Berar who had not figured in the reform scheme.²⁴ In 1916, major Ajab Khan Bahadur, a retired Subedar, was nominated by way of recognition of the services rendered by the Indian Army during the First World War.²⁵

One question that came up in connexion with nominations was whether a ruler or a subject of a Native State could be nominated to the Legislature. Under election Regulations they were treated as aliens. But they were often nominated to the Legislature. It was felt that on important measures like the Income-Tax Bill, the Arms Bill or the Licence Bill, the Heads and the Ministers of the Indian States could be the best advisers. Not infrequently, they were large landholders in British India.²⁶ However, the Government of India deprecated the nomination of anybody, who was not a British subject, even to a provincial Legislative Council.²⁷

Though definite rules were not laid down for nomination, suggestions for nomination were rejected on various grounds. In 1913, two persons from the Punjab were not considered for nomination because they did not know English and would have been out of place in the Legislature.²⁸ In 1916, Umar Hayat Khan, who had represented the Punjab landholders and the Punjab Muslims in 1910 and 1913 respectively, was not nominated because his name was not proposed by any of the Muslims' association or Chiefs' association of the province.²⁹ In 1913, Walter Culley Madge, a nominated non-official Member, asked for re-nomination on behalf of the Anglo-Indian community to pilot his Foreign Women Slave Trade Bill. But his request was not considered because the Government did not approve of

²³See Home (Public) A Progs., Feb. 1910, 190-3; Leg. A Progs., Apl. 1913, 133-5 and Leg. B Progs., Nov. 1916, 14.

²⁴Note by H.H. Risley, 7 Jan. 1910, Home (Public) A Progs., Jan. 1910, 63-64.

²⁵Leg. A Progs., Oct. 1916, 91-103

²⁶Home (Public) a Progs., July 1916, 180-91.

²⁷See Home Deptt. Unofficial Register No. 697 of 1909.

²⁸Govt. of the Punjab to the Govt. of India, No 91, 20 Dec. 1912, Leg. A Progs., Apl. 1913, 8-12.

²⁹Leg. A. Progs., Oct. 1916, 199-202.

his bill and his renomination could be misconstrued to mean approval³⁰ Moreover, he had been nominated to the Public Services commission

Sometime experts connected with proposed or pending legislation were nominated Although in the draft schemes of the Act of 1909 seats for experts had been provided, no such provision could be made in the final regulations owing to the numerical limits imposed by the Act³¹ However, when experts were needed for any purpose, some official Member was asked to resign or nominated non official seats were so manipulated as to make room for experts In 1913, for instance, to make room for Mohammed Ali Jinnah to enable him to pilot his Wakf (Validating) Bill, the representative of the Anglo-Indian community was not nominated³² In some cases, especially when a bill was opposed in certain quarters, it was found that the appointment of non official experts facilitated the passage of the bill³³ Sometimes, when a non official seat was not available, a non official was nominated to an official seat though official majority was always maintained³⁴ The expert member occupied the seat only as long as the Government deemed it necessary

Elected Members and the Methods of Election

The method of elections was worked out and by the Government of India after elaborate correspondence with the provincial governments in which no attempt was made to achieve uniformity It was argued that since the status and circumstances both of the landholders and the Muslims differed widely from province to province, the qualifications which could

³⁰Note by Vincent, 22 Mar 1913, Leg A Progs, Apl 1913, 248 60

³¹G G in C to S S, 22 July 1909, para 4, Home (Public) A progs, Aug 1909, 182 4 (Confdl)

³²Leg B Progs, Feb 1913, 149

³³M N Banerjee was appointed in connexion with the Medical Degrees Bill See note by A P Muddiman (Secy, Leg Deptt), 11 Jan 1916, Leg B Progs, Jan 1916, 128 9 See also Leg B Progs, May 1916, 134

³⁴Rai Bahadur K V Reddy was nominated to one of the official seats in 1920 See Leg B Progs Mar 1920, 1 3

produce a 'satisfactory' constituency in one case could not necessarily do so in the other.³³ In some cases qualifications differed from constituency to constituency. Minto as well as the provincial governments were satisfied with the end product. But to the Indian National Congress which had given a warm welcome to the 'Reform' Scheme in 1908, the liberal aims seemed to have been emasculated so thoroughly that in 1909 the Congress expressed its 'deep and profound dissatisfaction'. The regulations did smack of an attempt to belittle the importance of education as a qualification while premium was put on property and loyalty to the Raj.

The great variety of franchise in the different provinces as well as in the constitution of the actual electorates can only be disentangled by an analysis of the complicated regulations dealing with these matters in different provinces. An attempt has been made here to give the general features of various electorates prescribed for various seats, their size and the methods of election.

Franchise was really the crux of the problem. Certain specified categories were excluded from the list of voters. These included females, minors and persons of unsound mind.³⁴ Government servants, if qualified had a right to vote. There was no demand in India for franchise for women. In fact, even in Britain women did not enjoy the right to vote at that time.³⁵ The subjects of Indian states were treated as aliens under the election regulations though under the international law they were treated as British subjects.³⁶ But it was very difficult to distinguish between subjects of Native states and those of British India.³⁷ In elections held by special constituencies such as the chambers of commerce, universities, planting communities and trade associations, they often voted.³⁸

³³See Home (Public) Resolution, No. 4213, 15 Nov. 1909, para 15, *Gazette of India Extraordinary*, 1909.

³⁴Regulations (1909) No. V.

³⁵G.G. in C. to S.S., 22 July 1909, para 7, Home (Public) A Progs., Aug. 1909, 231-43.

³⁶Telegram to S.S., No. 3200, 20 Aug. 1909, Home (Public) A Progs., Aug. 1909, 231-43. See also Home (Delhi) A Progs., Feb. 1912, 81.

³⁷Home (Public) A Progs., July 1916, 180-91.

³⁸Leg. B Progs., July 1916, 90.

'General Electorates'

Under the Morley Minto scheme, electorates of a general character hardly existed. There were only twelve seats³⁹ which were often described as seats open to all. These seats were filled by a system of indirect elections. In the first instance, groups of district boards and municipalities, corporations and universities returned members to the Legislative Council of their respective provinces. The non official members of the provincial Council in turn elected representatives for the Imperial Legislature. The non-official members of the legislative councils of Bombay, Madras, Bengal and the United Provinces sent two members each while those of Punjab, Eastern Bengal and Assam, Burma and Central Provinces sent one member each.⁴⁰ The member representing Central Provinces, however, was elected by the delegates sent by the district boards and the municipal councils until a legislative council was formed there in 1914. Under this system, as Table 2 shows, numerically the constituencies were ridiculously small. It can be argued that a large number of members of the provincial legislative councils, who constituted the majority of the electors for the Central Legislature, were themselves elected representatives. The last column in table 2 shows the number of persons who returned members to each provincial legislature. A majority of these voters, too, were members of the municipal councils and district boards, sent by an electorate formed of a franchise covering practically all honorary magistrates, pleaders, fellows and graduates of any university, jurors and assessors, persons paying either annual property tax or professional tax or a monthly rent ranging from two to five rupees and in some cases to all persons owing property or business.⁴¹

Note by Vincent,

18 60

³⁹G G in C to S S, 22 July

1909, 182-4 (Confidential)

³⁹In the B Progs, Feb 1912, an additional seat was given to the Banerjee. Members of the Legislative Council of Assam and the number of seats assigned to the non official Members of the Local legislative Councils increased to thirteen.

⁴⁰Regulations (1909), No 11

⁴¹The qualifications differed from province to province

TABLE 2*
Electoralates for Unreserved Seats

<i>Name of the province</i>	<i>Number of non-official members who returned members to the Imperial Legislative Council</i>	<i>Number of electors who returned members to the Provincial Councils</i>
Madras	26	6,911
Bombay	35	7,137
Bengal	34	8,865
The United Provinces	29	3,366
Punjab	15	1,329
Bihar and Orissa	25	2,341
Assam	15	1,717
The Central Provinces	14	2,146
Burma	9	92

*The figures are for the elections held in 1912 and have been compiled from tables given in Home (Public) B Progs., Mar. 1916, 57-72. In the case of the Central Provinces the figures are for the elections held in August 1914.

Under this system a person who wanted to become a member of the provincial legislative council had to be a member of the local board or municipal council and had to secure sufficient influence at that level to get elected to the provincial council. Again, to become a member of the Indian Legislature, he had to be popular enough among the non-official members of the provincial council. This system had the effect of making the election procedure 'doubly indirect'.⁴² Ambitious men tended to look upon the local bodies as mere stepping stones to higher political positions to the detriment of purely local interests.⁴³ The exclusion from the electorate of a vast majority of people created rancorous feelings. This procedure became so unpopular that as late as 1934 the Joint Committee on Constitutional Reforms reported that Indian opinion was strongly opposed to this system largely owing to its association with the procedure under the Morley-Minto

⁴²See *Report on Indian Constitutional Reforms*, 1918, para 83 and Curtis to B.N. Basu, 6 Apl. 1917 in Curtis, *Dyarchy* (Oxford, 1920), p, 112.

⁴³Memorandum regarding Provincial Legislative Councils, 27 Feb. 1916, para 6, Chamberlain Papers, 22/91.

system ⁴⁴

Landholders' Electorates

From the first the Government of India was in favour of having some system of election for filling the landholders constituencies though doubts were expressed about creating a constituency out of an area as big as a province ⁴⁵ Finally, provision was made for electing representatives of the Muslims and landholders directly in at least four provinces Madras, Bengal, United Provinces and Bihar and Orissa The framers of the regulations felt that the association of the landholders with the Raj would be of greater value if they had the status of elected representatives of their class than if they occupied office as nominees of the Government In the despatch of 1 October 1908 they pointed out that 'if the landholders themselves take a real interest in the matter and are anxious to demonstrate their fitness to exercise the privilege of voting, provinces will compete with each other in devising methods of election and the best system will in the long run prevail' ⁴⁶ It was decided to confine the electorate to big landholders professedly because otherwise their 'most illustrious members' would be unwilling to offer themselves as candidates because of fear of the indignity involved in defeat by a rival candidate of an inferior social status ⁴⁷ The real reason, however, was that the Government did not look upon ordinary landlords as allies It is significant that even large landholders freely stood for election from constituencies not reserved for them and the fear of compromising their prestige' does not seem to have stood in the way here

⁴⁴ *Report of the Joint Committee on Constitutional Reforms*, 1934, v, 1, part I, para 201

⁴⁵ Home Department letter to Provincial Governments, 24 Aug 1907, para 15. *Correspondence Regarding Councils Reform*, v 1, part 1

⁴⁶ G G in C to S S, 1 Oct 1908, para 28, Morley Papers (33)

⁴⁷ Report of the Councils Committee, 12 Oct 1906, para 55, Morley Papers (32)

TABLE 3**

Landholders' Electorates

<i>Constituency</i>	<i>Number of Voters</i>
Madras	123
Bombay	37
Bengal	330
The United Provinces	244
Bihar & Orissa	109
The Central Provinces	40*

*Delegates selected from amongst 645 voters.

**The figures have been compiled from the tables given in Home (Public) B Progs. Mar. 1916. 57-72 and are for the elections held in 1912.

The Government aimed at creating an electorate of about one hundred members in each province.⁴⁸ This naturally implied that the qualifications for the landholders' electorate would have to differ from province to province depending upon the economic condition of the zamindars in a particular area. In Madras, a landholder having an annual income of Rs 15,000, while in Agra, the landholders who paid land-revenue amounting to Rs 10,000 voted. In Bengal, in the case of Burdwan and Orissa Divisions, landholders paying not less than Rs 20,000 as land-revenue while in the case of the Patna, Tirhut, Bhagalpur and Chota Nagpur Divisions, those paying land-revenue amounting to Rs 15,000 got the right.⁴⁹ The holders of titles, honorary distinctions, pension for public service, and fellowship of a university were also given the right to vote.⁵⁰ In spite of this variation in qualifications, as Table 3 shows, the number of voters varied from province to province. In Bengal and United Provinces the number of voters was considerably higher than what the Government had aimed at. It may be pointed out that the qualifications for electors, too, were higher in these provinces as compared to others. In Central Provinces, the landholders' candidate was returned by

⁴⁸ *Ibid.*, para 56.

⁴⁹ See Schedule VI to Regulations (1909).

⁵⁰ Schedules to Regulations (1909).

delegates who were elected by voters with considerably lower qualifications⁵¹ In the case of Bombay, the landholders enfranchised for electing the member of the provincial legislative council were given the right to elect their representative to the Imperial Legislature also, the zamindars of Sind electing at the first, third and succeeding alternate elections and the *sardars* of Gujarat and the *sardars* of the Deccan at the second, fourth and subsequent alternate elections⁵²

Muslim Electorates

In respect of Muslims, the decision to devise special electorates in place of utilizing the machinery already to hand in the shape of the existing bodies, institutions, and associations, or by the adoption of standards such as the payment of land revenue, resulted in the creation of special franchise lists reaching much lower in the social and in property qualifications than in the case of any other community As in the case of the landholders' electorate, the qualifications differed from province to province Roughly, in Madras, Muslims having an annual income of Rs 3,000 from land or paying income tax on an income of at least Rs 6,000, were enfranchised In United Provinces, those Muslims who paid a land revenue of not less than Rs 10,000 or income tax on Rs 10,000 got this right In addition those Muslims who were members of the provincial legislative councils or fellows of a university in the province or held certain titles or were retired gazetted or commissioned officers were also enfranchised⁵³ Table 4 shows⁵⁴ that the size of the Muslim electorate was bigger than that of the landholders As in the case of the landholders' constituencies the number of electors in United Provinces was the highest though in this province the qualification for membership in respect of owning property or income was also the highest⁵⁵ The representative of Bombay was elected by the

⁵¹*Ibid*, Schedule IX

⁵²*Ibid*, Schedule V

⁵³See Schedules to Regulations (1909)

⁵⁴The figures are for the elections held in 1912 and have been taken from table given in Home (Public) B Progs Mar 1916 57-72

⁵⁵See Schedules to Regulations (1909)

Muslim members of the provincial council because the Governor of Bombay held that direct election of a member on a communal basis was 'the very worst step'.⁵⁶

TABLE 4**
Muslims' Electorates

<i>Constituency</i>	<i>Number of Voters</i>
Madras	544
Bombay	8*
Bengal	393
The United Provinces	650
Bihar & Orissa	306

*The electorate was confined to the Muslim members of the Bombay Legislative Council.

**The figures are for the elections held in 1912 and have been taken from table given in Home (Public) B Progs. Mar. 1916, 57-72.

In addition, two members were elected by the European Chambers of Commerce of Bombay and Bengal in accordance with the rules laid down by the respective chamber. However, the rules once laid down could not be amended without the sanction of the Government of India. In 1912, the electorate for these two seats was 109 and 190 respectively.⁵⁷

Eligibility of Candidates

No person was eligible to contest unless he possessed the qualifications prescribed for a voter in the same constituency and had a place of residence within the province concerned.⁵⁸ However, in the case of candidates standing for election to the Central Legislature elected by non-official members of the provincial Legislative councils, it was not necessary to be a member of the provincial council. In this case, it was essential that the nominations should be made from amongst persons who were not ineligible for election under the Regulations, had a

⁵⁶Govt. of Bombay to Govt. of India, 24 Jan. 1909, Home (Public) A Progs., Feb. 1909, 205-44.

⁵⁷Home (Public) B Progs., Mar. 1916, 57-72.

⁵⁸Regulations (1909), No. 5.

place of residence within the province concerned and had such practical connexion with it as qualified him to represent it ⁵⁹

Once it was decided that the elected candidates were to occupy their seats as a result of the verdict of their constituents and not after nominations by the Government of India, it became obvious that a list of disqualifications would have to be drawn up. Some of the disqualifications that were laid down were of a general nature while others had political overtones.

After prolonged negotiations, a list of general disqualifications for candidates was drawn up. It laid down that no person would be eligible for election to any legislative council if he was not a British subject, or was a female, or was under twenty five years of age, or had been adjudged by a competent civil court to be of unsound mind or was a certified bankrupt or was an undischarged insolvent ⁶⁰. The age qualification prescribed under these Regulations exceeded that prescribed for the membership to the British Parliament. But in France, Germany and Belgium, no one under twenty five and in Austria and Italy, no one under thirty was eligible for the Chamber of Deputies. The list of disqualified category of persons also included dismissed Government servants, persons sentenced by a criminal court to imprisonment or transportation, persons who had been ordered to furnish security for good behaviour and those who had been debarred from practising as legal practitioners ⁶¹. The last clause in the list empowered the Governor General to disqualify any person from standing as a candidate by making a declaration that his reputation and antecedents were such that his election would be contrary to public interest ⁶².

This last clause came in for bitter criticism. The Government of India wanted to prevent the 'deportees', that is, person who had been exiled under State Prisoners Regulations from standing as candidates. They held that if a deportee, soon after his release from restraint, was 'imported' into the Legislature, 'such discredit would be brought on the British adminis-

⁵⁹See Schedules to Regulations (1909)

⁶⁰Regulations (1909), No. 4

⁶¹*Ibid*, No. 4 (f h)

⁶²*Ibid*, No. 4 (i)

tration as could not safely be faced in India.⁶³ But Morley objected to disqualifying 'deportees as such'. He objected to empowering the Executive Governor not only to detain persons without charge or trial but also to exclude them from the elections. He held that such a Regulation would widen the scope of Regulation III of 1818.⁶⁴ Finally, the Government of India got a far wider power than it had asked for. The Governor-General was empowered to disqualify any person whom he considered undesirable as well as to remove any of the disqualifications.⁶⁵

When the Regulations were revised in November 1912. Government officials were expressly disqualified from contesting elections as it was clearly not the intention of the framers of the Act that elective seats should be filled by Government officials.⁶⁶ If a non-official member of the Legislature was appointed to an office under the Crown, he had to resign from the Legislature. In this respect, a 'troublesome' case arose in 1913 when W.C. Madge and Gopal Krishna Gokhale were appointed to serve on the Public Service Commission. Of the two, Madge was a nominated member and was not re-nominated. However, in the meanwhile, Gokhale was elected by the non-official members of the Bombay Legislative Council. He was informed that under Regulation IV he was debarred from contesting the election.⁶⁷ He objected to the decision of the Government. Finally, when Gokhale showed a readiness to forego his emoluments as a Member of the Commission, he was allowed to continue.⁶⁸

The Indian press and public opinion were apprehensive that some of the disqualifications had been inserted with the object of excluding some particular individuals like Surendranath Banerjea, K.K. Mitra, Ashwani Kumar Dutta, N.C.

⁶³G.G. to S.S., 3 Mar. 1909, Morley Papers (33).

⁶⁴S.S. to G.G., 14 Apl. 1909. *Ibid*

⁶⁵Regulations (1909), No. 4.

⁶⁶G.G. in C. to S.S., Home (Public) No. 17, 1 Aug. 1912, para 4, Home (Public) A Progs., Oct. 1912, 194-219.

⁶⁷See Demi-official from Vincent to Gokhale, 4 Jan. 1913, Leg. A. Progs., June 1913, 31-35.

⁶⁸Gokhale to Vincent, 11 Jan. 1913, *Ibid*.

Kelkar, etc.⁶⁹ In 1910 there was great disappointment when N C Kelkar was not allowed to stand for election to the Bombay Legislative Council.⁷⁰ But during the second and the third elections, two interesting cases occurred when Government officials expressed themselves strongly in favour of vetoing the candidatures of Surendranath Banerjea and G S Khaparde and discovered to their chagrin that this could not be done.

In 1912, Banerjea decided to stand for election to the Bengal Legislative Council after he and his group had boycotted them in 1909. At this stage, Sir Edward Baker, the Lieutenant Governor of Bengal, not only made no examination into his antecedents but actually expressed satisfaction at his decision to participate in elections.⁷¹ Banerjea succeeded in entering the Bengal Legislative Council. Thereafter he decided to stand for election to the Central Legislature. He had been dismissed from the Indian Civil Service. Under the rules he could not stand for elections. So he applied to the Governor General for waiving the disqualification on this ground. All members of the Executive Council except Ali Imam were 'violently opposed' to removing the disqualification.⁷² Hardinge himself wrote to the Secretary of State:

He has led the anti British movement and steadily agitated to turn the youth of Bengal against the British. We recognize that from men in high office Banerjea received encouragement, and we are aware that refusal to waive disqualification will lead to outcry in Bengal. But we believe that such refusal would be approved by a large number of loyal men outside Bengal.⁷³

But ultimately the Government of India decided to remove the disqualification. The reason was not that Hardinge or his advisers had changed their opinion. Even after he had attended two sessions Hardinge wrote 'I do not think that Banerjea

⁶⁹See Native Newspapers Reports, Bengal Nov-Dec 1909

⁷⁰See speech by the President, INCP, 1909

⁷¹See Note by Craddock, 20 Jan 1913, Home (Pol.) A Progs., Feb 1913, 9 35 (Confidential)

⁷²Note by Ali Imam, Jan 1913 *Ibid*

⁷³Hardinge to S S, 23 Jan 1913, *Ibid*

understands the meaning of the word co-operation . . . and that in all his articles touching upon the most innocent subject, there is almost always a drop of poison in the cup.⁷⁴ The step was taken because of purely political reasons—the fear of outcry in Bengal, the knowledge that he represented ‘certain political views which will not be silenced or pacified whether we utter them or not.’⁷⁵ and that it would be ‘a great advantage to have him under one’s thumb.’⁷⁶

Similarly in, 1917 the Government of India discovered that the necessity of declaring a person disqualified before election placed it in an invidious position.⁷⁷ In that year, G.S. Khaparde, ‘a dangerous agitator’ and ‘an ally of Tilak’⁷⁸ stood for election to the Indian Legislature from Central Provinces. The Chief Commissioner of Central Provinces wanted to disqualify him as a person of such reputation and antecedents whose election would be contrary to public interest. But he discovered that he could do nothing because under the Regulations, nominations had to be made from amongst persons not ‘ineligible for election’. So a person could be disqualified only before he was nominated. But if this was done, the awkward question could be ‘How did you know that he was going to be nominated?’ Such an action would have given Khaparde ‘free advertisement’ and would have made him a ‘martyr in the eyes of the people.’⁷⁹ The Government had no power to disqualify a duly nominated person and the Chief-Commissioner could only feel bitter about the Central Provinces returning a man of Khaparde’s stamp.⁸⁰

⁷⁴Hardinge to C.J. O'Donnell, 17 Dec. 1913. Hardinge Papers (93).

⁷⁵S.S. to G.G., 24 Jan 1912, *Ibid.* (97).

⁷⁶Hardinge to Carmichael, 17 Feb. 1913, *Ibid.* (84).

⁷⁷In fact, in 1910 the Government of Bombay had suggested a modification of this clause. But the Committee appointed in September 1911 to consider the revision of Council Regulations came to the conclusion that such cases would be few and far between and that it would be the duty of the Local Government to keep the Government of India well informed. See Home (Public) A Progs., Nov. 1911, 164-84.

⁷⁸See Home (Public) Deposit Progs., Aug. 1917. 66 (Confdl.).

⁷⁹Robertson (Chief Commissioner of the Central Provinces) to Du Boulay (Officiating Home Member). 13 Nov. 1917, Home (Public) Deposit Progs., 1917, 24 (Confdl.).

⁸⁰*Ibid.*

Procedure of Elections

The method of election differed from province to province. In most of the constituencies the electors voted directly for the candidates. Only in the cases of the lardholders' seat and the general seat in the Central Provinces the elector first elected delegates who in turn elected candidates. If the number of candidates who filed the nomination papers did not exceed the number of members to be elected, the candidates so nominated were declared elected.⁸¹ If it did an election was duly held.

The procedure for casting votes differed from constituency to constituency. In case of election by non official members of the provincial councils, the voter had to write the name of the candidate he wished to vote for and mark an "X" against the name.⁸² In other elections, the names of candidates nominated were mentioned on the ballot papers. In case the electorate was scattered, as in the case of the landholders and Muslims, provision was made for the publication of the electoral rolls containing the names of all those qualified to vote. In some constituencies electors or delegates voted at a single centre before the returning officer and in others for example, in the case the landholders of Bengal and Madras, they voted at different centres before an attesting officer. The latter despatched the ballot papers to the returning officer.⁸³ The manner of casting vote was generally similar to that prescribed by the English Ballot Act, the electors voted at places screened from observation.⁸⁴ In 1913, in the election to the Imperial Legislative Council from the Central Provinces, an enthusiastic delegate wrote the name of the candidate he wished to vote for at the back of the ballot paper. Since the voter could be identified from his hand writing, the vote was rejected.⁸⁵ Ballot papers

⁸¹This happened in some cases, i.e., in cases of Raja Pratap Bahadur Singh in 1910, Maharaja of Tikari in 1913 and Banerjee in 1918. See Leg. B Progs., Jan 1910, 23-38, Leg. A Progs., Apr 1913, 134-43 and Leg. B Progs., Jan 1918, 22-37 respectively.

⁸²See Schedules to Regulations (1909) Nos. I-IV.

⁸³See Schedules to Regulations (1909).

⁸⁴Home (Public) Resolution, No. 4213, 15 Nov, 1909, para 19, *Gazette of India Extraordinary*, 1909.

⁸⁵See Leg. A Progs., Apr 1913, 144-9.

were in English. In 1916, the Government of Bengal expressed a desire to use bilingual ballot papers using both English and Bengali. This was allowed in the case of Bengal.⁸⁶ The amendments of 1912 provided for assistance to person who was unable to read and write because of some physical defect.⁸⁷

When two candidates were to be elected, the Schedules provided for 'cumulative voting', that is, a member could cast both his votes in favour of the same candidate. This procedure was adopted to enable a minority or a combination of minorities to obtain occasional representation.

The votes were counted in the presence of the candidates or their representatives.⁸⁸ In case of a tie, which was possible in smaller electorates like those of the non-official members of the provincial Councils, the result was decided by drawing lots in the presence of the returning officer.⁸⁹ This actually happened in some cases.⁹⁰ The result of the election was published in the Gazette of India. Such publication, however, did not make an ineligible candidate eligible or prevent the Governor-General from subsequently declaring any election void under Regulation VIII (1) a.⁹¹

In case the same candidate was elected by more than one electorate, the candidate thus elected was required to choose the constituency he intended to represent and to convey his decision to the Governor-General within seven days of the date of publication of the results in the Gazette. If he failed to do so, the Governor-General had a right to decide which electorate he should represent and such a declaration was conclusive.⁹² When any such choice or declaration was made, the votes given to that candidate were deemed not to have been given and the result was declared on the basis of the rest of

⁸⁶See Home (Public) A Progs., Mar. 1916, 98-99.

⁸⁷Leg. Deptt. Notification No. 61, Nov. 1912, Schedule 6(4), *Gazette of India Extraordinary*, 1912.

⁸⁸See Schedules to Regulations (1909).

⁸⁹*Ibid.*

⁹⁰In 1909 N. Subba Rao and in 1912 Nawab Saiyid Muhammad were elected in this manner. See Leg. B Progs, Feb. 1910, 32-49 and Leg. A, Apl. 1913, 35-132.

⁹¹Note by Macpherson (Secy., Leg. Deptt.), 7 Dec. 1909, Leg. B Progs, Jan. 1910, 23-8.

⁹²Regulations (1909), No. IX (1).

the votes ⁹³

Broadly speaking, the election procedure was based on the system evolved in England though adjustments had to be made to gear the system to the size and nature of the electorates. Complaints against the procedure for casting votes were rare. The provincial governments, too, were satisfied with the working of the election regulations ⁹⁴

An election was held to be invalid if any corrupt practice was committed by the successful candidate. Corrupt practices included monetary offer to induce an elector to cast his vote for a certain person or abstain from voting, promise of individual profit, threat of injury to any person, or abetting impersonation. If a corrupt practice was committed with the knowledge and consent of the candidate, it was deemed to have been committed by the candidate himself ⁹⁵. In 1915, payment or offer of a voter's travelling expenses by the candidate was included among corrupt practices. Such a case had already occurred in Bengal and the Government of India wanted to define the position before this improper practice could obtain the sanction of usage, ⁹⁶

In case of improper acceptance or rejection of nomination papers or of any other corrupt practice or irregularity in election any elector or candidate could appeal to the Governor-General within fifteen days of the date of publication of the result of such election in the Gazette of India ⁹⁷. Generally, every case was decided on its merit after full investigation ⁹⁸ though in some cases decision was influenced by the natural desire to have a more acceptable candidate. In 1913, the election of Raja Kushpal Singh was set aside on a petition from his rivals because in the Allahabad Gazette the time had been wrongly notified ⁹⁹. In 1916, an appeal was made against the candida-

⁹³*Ibid*, No IX (2)

⁹⁴See letters from Provincial Governments in Home (Public) A Progs, Nov 1911, 164-84 and Home (Public) A Progs, Apl 1913, 240

⁹⁵Regulations (1909) No XIV

⁹⁶G G in C to S S, 27 May 1915, para 5, Leg, Deptt Unofficial Register No 125 of 1915

⁹⁷Regulations (1909) No XVI (1)

⁹⁸See Leg B Progs, Feb 1910 32-49, Leg A Progs, Apl 1913, 144-9 Leg A Progs, Nov 1919, 10-25

⁹⁹Leg A Progs, Apl, 1913, 150-63

ture of Ahmed Muhi-ud-Din Khan Sahib on the ground that he was an 'undischarged insolvent'. The candidate admitted that though he had obtained 'personal' discharge, he had not obtained 'final' discharge as he did not know the difference between the two. He wanted the Government to extend the time for nomination to enable him to obtain the latter.¹⁰⁰ This request was rejected not for procedural but for political reasons. The officials were not interested in his becoming a member. At seventy-seven he was considered too old and infirm. The more important reason however was the likelihood of the Prince of Arcot coming forward as a candidate. Government officials held that 'socially and otherwise' the latter was 'more fit' to represent the Muslims of Madras.¹⁰¹

In the press, complaints of pressure exerted by the officials were common. The biographer of Vithalbhai Patel alleges that in 1916, the officials made 'every effort' to see that Patel was not elected against D.E. Wacha who was their favourite. He says that in 1918 again, they tried to exert pressure. But this time they were not successful.¹⁰²

Sometimes it so happened that the members of the provincial legislative councils were elected to the Central Legislature. There was no provision in the Indian Councils Act or the Regulations framed thereunder prohibiting any person from being a member of more than one Legislative Council simultaneously. In some cases, plurality of seats had been maintained. During 1900-1912, seventeen non-official members served on both the provincial and the Central legislative Councils.¹⁰³ But generally such members resigned their seat in the provincial as part of an unwritten practice.¹⁰⁴ This question came up for consideration in 1912 when G.M. Bhurgri, a Member of the Bombay Legislative Council, was elected to the Central Legislature by the landholders of Sind. When he was asked to resign from the Bombay Council, he refused to do so on the

¹⁰⁰Leg. B Progs., Apl. 1916, 108-36.

¹⁰¹Note by Macpherson, 10 mar. 1916, *Ibid.*, p. 18.

¹⁰²See G.I. Patel, *Vithalbhai Patel* (Bombay, 1950), v. 1, pp. 167-8.

¹⁰³G.G. in C. to S.S., Home (Public) No. 10, 6 June 1912, Enclosure IV, Home (Public) A Progs., June 1912, 45-53.

¹⁰⁴Govt. of Bombay to Govt. of India, No. 900, 1 Dec. 1911, Leg. B. Progs., Jan 1912, 32-33.

ground that he had promised his constituents that he would retain his seat in the Bombay Council ¹⁰⁵ In this context, the Government of India argued that the discretion of non official members should be as unfettered as possible, and that no political inconvenience had been experienced owing to such duplication ¹⁰⁶ But the Secretary of State insisted that the opportunities for the political education of the leaders of Indian interests and communities would be curtailed if such duplication became general and that in view of the enlargement of membership and extension of functions, earlier cases could hardly be cited as precedents ¹⁰⁷ When the question was referred to the provincial governments all, except the Governments of Bihar and Orissa, Punjab and the Central Provinces, expressed their opinion against pluralism ¹⁰⁸ The Indian press was also opposed to—what they called—any Member being 'a double honourable' ¹⁰⁹ Finally, in 1913, for the sake of uniformity, Regulation VIII was amended to provide that if a member was subsequently elected or nominated to any other legislative council, the Governor-General would have a right to declare his election void and his seat vacant ¹¹⁰ Later, in 1917, a relaxation was to the rule in the case of experts ¹¹¹

Oath of Allegiance

Every person, elected or nominated under the Act, was required to take the following oath of allegiance to the Crown before taking his seat on the Legislature

I, A B, having been elected/nominated an Additional Member of the Legislative Council of the Governor-General, do

¹⁰⁵Govt of Bombay to Govt of India, No 900, 1 Dec 1911, *Ibid*

¹⁰⁶Govt of India to the Govt of Bombay, No 199, 19 Jan 1912,

Ibid

¹⁰⁷S S to G G in C, Public No 180, 20, July 1912, para 5, Leg B Progs, June 1913, 205 7

¹⁰⁸G G in C to S S, Home (Public) No 16, 19 July 1913, para 3,

Ibid

¹⁰⁹See *Hitavadi*, 7 Jan 1910, Native Newspapers Report, Bengal

¹¹⁰See Leg B Progs, June 1913, 205 7

¹¹¹See Home (Public) Deposit Progs, Nov 1917, 27

solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty of the office upon which I am about to enter.¹¹²

The Government of Bombay proposed that in accordance with the practice in England a member should not be allowed to perform any function as member before he had taken the oath.¹¹³ Under the rules, the members were required to give ten days notice for questions. The adoption of the practice of the British House of Commons would have meant that no questions could be asked during a whole session because after January the Council was adjourned till February and the month of March was occupied by Budget debate. As the Home Member himself pointed out, this would have suited the personal convenience of many departments and would have saved the Secretary to the Legislature a great deal of trouble. But at the same time, it would have considerably curtailed the opportunities of the non-official Members.¹¹⁴ The members were, therefore, allowed to give notice of questions before taking the oath.

The members of the provincial councils could participate in elections also without taking the oath because an election was not held at any meeting of the Council. It was held at a meeting which was 'wholly outside the Council', all electors being non-official members of the legislative council irrespective of whether they had or had not taken the oath.¹¹⁵ A member could not, however, participate in the deliberations of the Select committee without taking the oath.¹¹⁶

¹¹²Regulations (1909), No. VII.

¹¹³Govt. of Bombay to Govt. of India, 10 Sep. 1912, Home (Public) Deposit Progs., Nov. 1912, 18.

¹¹⁴Minute by W. H. Vincent. 30 Sep. 1912. para 3, *Ibid.*

¹¹⁵Note by G.H.B. Kenrik, 29 Mar. 1913, Leg. A Progs., May 1913, 20-4.

¹¹⁶Leg. B Progs., May 1920, 15-21.

The Three Elections and Their Results

In 1909 the term of office of the non official members was increased from two to three years in order to decrease the frequency of elections. It was also decided that if a member was elected at a bye-election, he would sit only for the unexpired term.¹¹⁷ This was significant. It meant that there would be a general election in the country after every three years. This marked a departure from the earlier theory underlying the constitution of the legislative councils that they never ceased to exist though their members changed from time to time. Moreover, from the political point of view, general excitement was inseparable from elections. Under this scheme, elections were held thrice—towards the end of 1909 and 1912 and the middle of 1916.

During the discussions preceding the passing of the Indian Councils Act of 1909 many officials had expressed their misgivings about the advisability and feasibility of constituting an electorate by massing together for voting purposes the entire body of landholders or Muslims in 'so large and heterogeneous an area as an entire province'. They apprehended that an electorate thus constituted would be wanting in solidarity, that the voters would be apt to fall into the hands of 'wire pullers', and that by reason of the incongruous elements of which it comprised, it might fail to choose a suitable representative to the central legislature.¹¹⁸ But, in 1911, when the Government of India asked the provincial governments whether the members were representatives of their class, they, by and large, answered in the affirmative.¹¹⁹ They were satisfied with the franchise lists drawn up for the elections both of landholders and

¹¹⁷For correspondence on this issue see Home (Public) A Progs., Aug 1909, 182-4 (Conf'd). In 1916, however, an exception was made in case of the members elected from the Central Provinces because they had occupied their seats only in 1914 after a Legislative Council was constituted there. See Leg. Dept. Unofficial Register No. 155 of 1915.

¹¹⁸Home Dept. letter to Provincial Governments, 24 Aug 1907, para 15, *Correspondence relating to Councils Reform*, v 1, part I.

¹¹⁹See Home (Public) A Progs., Nov 1911, 161-184.

Muslims.¹²⁰ A special India Office Committee constituted to report on further reforms reported that though the number of constituents in separate Muslim constituencies was small yet most of the Muslims 'with any substantial stake in the country' had a direct vote for a member of the Legislative Council.¹²¹ With the method of elections too there were no complaints. The officials seemed to be satisfied with the result of first elections.

The second election was duly held in 1912. There was no perceptible change in the nature of membership of the Legislature except that the desire of the officials to eliminate Gokhale by elevating him to the membership of the Public Services Commission did not materialize¹²² and that the officials were not sure of the posture Banerjea would adopt. They viewed with relief the fact that he was not able to get support of the other members on the Conspiracies Bill and the Press Bill.¹²³ The third elections were due in the second half of 1915. But even in 1912 the Government of Bombay had drawn attention to the difficulty arising every third year in regard to the appointment of the Finance Committee of Provincial Legislatures, which it was desirable to appoint not later than the beginning of December in order to afford the members of the Committee sufficient time to examine and criticize the budget proposals and put forward considered suggestions for modifications in them. In order to get over this difficulty, it seemed necessary to hold elections two or three months before the end of the year. The remedy lay either in curtailing or extending the term of office of non-official members which was to expire in December 1915. As any curtailment would have given rise to resentment, the term of office of the members was extended by six months and elections were held during the summer of 1916.¹²⁴

¹²⁰ *Ibid.*

¹²¹ Report of the Second Special Committee on Indian Reforms. 27 Oct. 1917, Chamberlain Papers AC 22/91.

¹²² Wilson to Hardinge, 2 Mar. 1912, Wilson Papers.

¹²³ Hardinge to Carmichael, 9 Mar 1913, Harding Papers (115).

¹²⁴ G.G. in C. to S.S., 27 May 1915, Home (Public) A Progs., June 1915, 54-73 & K.W.

By the time the third election was held the atmosphere outside the Legislature had undergone a perceptible change and there was serious talk of more concessions to Indians in the bureaucratic corridors as well as outside. In this context Morley Minto scheme came in for much criticism which was in a way natural because it was only at the altar of the defects of this scheme that a new scheme could be worked out. Moreover, by this time the officials began to complain rather loudly about the 'pleaders' and the 'advanced sections' entering the Legislature. In 1916 Government of India complained that the results of the system of checks and balances had not been at all fortunate since in practice, the members returned had been 'predominantly of the lawyer class or under its influence' ¹²⁵

The next elections were due in 1919. But the instead of holding elections, the Government decided to extend the term of the members until such time as the Government of India Act of 1919 was finalized. The reason for this postponement was pragmatic and not just the undesirability of holding elections at a time when the new scheme was in the offing. In 1918 that section of the nationalists which had welcomed the Morley Minto reforms and had wanted to give it a try, formed the National Liberal Federation. The Viceroy recommended the extension of the term of the Legislature 'in the interests of the infant moderate party who for their attitude at the last Council have been subjected to much abuse and will need heartening if they are to maintain new relations with the Government' ¹²⁶. The Law Member had also pointed out that because of the 'very drastic legislation in view' their support would be more uninhibited if they did not have to face a general election immediately afterwards ¹²⁷. The next election was therefore held only under the Montford scheme.

¹²⁵Government of India's letter to the Provincial Governments, 20 July 1916, Appendix III Chelmsford Papers (51)

¹²⁶Telegram from G G to S S, 13 Nov 1918, No 2281, Home (Pub) A Progs, Apl 1919, 257

¹²⁷Note by G R Lowndes, 18 Oct *Ibid*

Landholders and Elections

The landholders were brought in primarily as bulwarks of the *Raj*. Their position and power were linked up with its continuance and, therefore, it was hoped that they would not participate in agitational politics. As table 5 shows, as compared to the Councils formed under the Act of 1892, they had improved their position. But this improvement perhaps fell far short of official expectations and they noted with concern that the 'legal profession' had gained at the expense of the landholders.¹²⁹ The situation seemed to become alarming because even the landholding members seemed to be playing an independent role. As Craddock, the Home Member, wrote in 1917:

One has only to look to see who these landholders are, e.g., Mr Iyengar on our Council in nominally a landholder but he is a Brahmin by caste and a follower of Mrs. Besant. So is the Raja of Mahmudabad. There is nothing to choose between those and lawyer politicians. They will not voice the conservative elements of the country which they are intended to represent.¹²⁹

TABLE 5**
Representation of Various Professions

Profession	Percentage in				
	1862-1892	1893-1905	1909	1912	1916
Landholders and ruling chiefs	48.2	23.6	44 or 48*	44 or 48*	33
Banking and Commerce	33.2	24.8	12	18	22
Professional (School teachers and lawyers)	12.4	39.8	37 or 33*	26 or 22*	33
Others	5.6	11.8	11	11	

*One of the members was both a landholder and a professional.

¹²⁵Report on Indian Constitutional Reforms, 1918, para 84.

¹²⁹Note by H.R. Craddock, Home (Public) Deposit Progs., Feb. 1917, 32.

**See Report of the Councils Committee, 1906, Part II, Minto Papers, No. 3 and Home (Public) Deposit, Progs, Feb. 1917, 33.

Professional Classes and Elections

In Government communications and notes the terms 'politically conscious classes', 'educated middle class', 'professional classes' etc were used for synonymous categories. A note, which was described as 'an admirable and most useful note', stated

The 'educated middle class' is a somewhat difficult term to define, but it may reasonably be held that persons who belong to commerce and the profession of law and journalism are ordinarily drawn from its rank ¹³⁰

Table 5 gives the class composition of the Legislative bodies formed under the acts of 1861 and 1892 on an average and that for each of the three councils under the 1909 Act. It shows that even under an extremely limited, indirect and rudimentary system of elections introduced in 1892, the middle classes had been able to gain seats at the expense of the aristocratic classes. One aim of the reform scheme of 1909 was to reduce the proportion of the professional classes in the legislative bodies. In a public circular of 24 August 1907, the Government of India frankly stated that the elective system in force at that time had 'given to the legal profession a prominence to which it is not entitled while it has signally failed to represent other important elements of the community'.¹³¹ But, in spite of making provision for fourteen members representing sectional interests and for twelve who could 'remotely be said to represent the views of the people as a whole',¹³² the professional classes were able to maintain their position. The

¹³⁰Note by Wheeler, 24 Oct. 1912. Home (Public) A Progs., Apr. 1913, 240.

¹³¹Home Dept. Circular to Provincial Government, 24 Aug. 1907, para 9, Morley papers (32).

¹³²*Report on Indian Constitutional Reforms* (1918), para 83.

officials were not ready to accept the lawyers as 'representative of the people'. Reporting on the Provincial elections, the Government of the United Provinces mentioned that three Muslims had succeeded in joint electorates of which two were 'representatives of Muslims' implying thereby that the third was not. Referring to the third member, the Government wrote: 'The third is a *rakil* and a member of Muslim League. He is a *Shia* and is also possibly more representative of the younger educated class than of the community at large.¹³³ Thus his disqualifications were that he was 'a *rakil*', 'a *Shia*', and 'a representative of the younger educated class'. Similarly, in elections held by the non-official members of Bengal Legislative Council to elect two representative to the Central Legislature, there were five candidates—'two commoners and three grandees' as the *Tribune* put it.¹³⁴ To the surprise of all the two plain misters—Basu and Sinha—succeeded while Maharajas of Darbhanga and Gidhour were left at the bottom. It is interesting that the Government of Bengal did not consider these elected members to the representatives of the constituency.¹³⁵ The question arises: Why did the officials oppose the entry of men from this class when the non-official section was perpetually in a minority and there were always some non-officials who loyally supported the Government? This question becomes more relevant in view of the facts that lawyers have always predominated in all representative law-making bodies including that of Britain and that in a body so largely concerned with the making of laws and so largely conducted through the medium of persuasive speeches, lawyer class could be a definite asset. Moreover, as the authors of the Indian Constitutional Report of 1918 themselves noted, in India this condition was accentuated by the fact that the choice of occupations open to the educated classes had been narrowly limited.¹³⁶ The factor which can explain their be-

¹³³Letter from the Govt.of U.P., 25 Apl. 1910. Home (Public) A Progs., Nov. 1911, 164-184.

¹³⁴ *The Tribune*, 12 Jan. 1910.

¹³⁵Govt. of Bengal to the Govt. of India, 5 June 1911, Home (Public) A Progs., Nov. 1911, 164-184.

¹³⁶ *Report on Indian Constitutional Reforms* (1918), para 84.

haviour is that the Government had realized that the educated middle class acted as spokesman of Indian interests as opposed to British imperial interests, that in the debates in the Legislative Council they were morally on a much more convincing ground than the officials could ever be, that it was impossible to beat them in arguments and that their programme and demands could not be accommodated within the imperialist framework. This was the reason why Hardinge wrote that the 'importation of the lawyer class' would make things 'uncomfortable'.¹³⁷ An India Office Committee also noted that the educated classes 'would manipulate their legislative majority, whatever the safeguards to make Government's position intolerable'.¹³⁸

Effects of Communal Representation

The growth of Muslim communalism leading ultimately to the partition of India has often been traced to Morley-Minto reform scheme. In view of the similar views held by others and the amount of scholarship lavished upon this issue, it is important to consider the immediated impact of the introduction of weightage and separate electorates on the proceedings of the Indian Legislature, the extent to which the elected members seconded the British or made a common front against imperialism together with other members, the attitude they adopted towards various issues, their effect on the attitude of Hindus and Muslims outside the Legislature and the long term effects of the introduction of weightage and separate electorates for the Muslims on the nationalist movement.

Under the regulations all other sections of the population except the Muslims and big landholders were denied a direct vote. While the Muslims possessing certain qualifications got a right to vote directly for elections even to the Central Legislature, other groups did not get any such right. Their representatives were elected by electoral colleges consisting of the non-official members of the district boards and municipal com-

¹³⁷Hardinge to Richie, 29 Mar 1911, Hardinge Papers (117)

¹³⁸Committee on Indian Reforms, 27 Oct 1917, Chamberlain Papers (21/4/4)

mittees who sent members to the provincial Legislative Councils. In the city of Bombay, for example, while every Muslim who had an annual income of £ 135 got a right to vote for election to the provincial Legislative Council, no Hindu or Parsee, however wealthy or educated, had a vote unless he was a member of one of the bodies which had been called upon to elect a member.¹³⁹ The *Mahratta* considered the electoral system so unreliable and complicated that it expressed satisfaction at the election of a man like Gokhale, commenting that under the elected system even a man like him would not find it easy to enter the Legislature.¹⁴⁰ It is interesting that even while forming Muslim electorates premium was put on the 'traditional leaders' of the Muslims like the landholders and *maulvis*. A *maulvi* who got a salary of Rs 25-30 was given a vote while Muslim graduates did not get vote unless they were graduates of five years standing.¹⁴¹

In addition to their grudge on the issue of franchise, the bitterness amongst the Hindus increased because in the first elections, Muslims were able to fair very well even in elections from joint electorates. Table 6 gives the proportion of Muslim members in the elections held by non-official members of the provincial Legislative Councils.

TABLE 6

Members sent by non-official members of Provincial Legislative Councils*

Community	Percentage in		1916
	1909	1912	
Hindus	60	73	73
Muslims	30	18	9
Sikhs	10	9	9
Parsis			9

*The Member from Burma whose religion was not known even to the Government of India has been left out in all cases.

¹³⁹Gokhale to Wedderburn, Dec. 1909, Gokhale Papers (203).

¹⁴⁰*The Mahratta*, 7 Jan. 1910.

¹⁴¹An interview with A. Rasul reported in the *Mahratta*, 21 Nov. 1909.

As table 6 shows, in 1909, out of ten seats 'open to all', Muslims were able to get three seats. In addition Muslims got two landholders seats—an elected seat from Bombay and nominated seat from the Punjab. This, in addition to the six seats assigned to the Muslims [five elected plus one nominated] gave to the Muslims eleven out of thirty seats.¹⁴² This created great apprehension in the minds of Hindus which was voiced in the *Mahratta* when it wrote that the time might not be distant when the 'majority-minority' positions in the Legislature would be reversed.¹⁴³ Even a cautious politician like Gokhale described Muslim representation as 'so excessive as to be not only unjust but monstrously unjust'.¹⁴⁴ Minto also wrote to the Governor of Bombay that the Muslims had fared so well on the legislative councils that 'we need hardly worry ourselves further about their interests'.¹⁴⁵ But in this respect it would be misleading to rely on figures alone because denominational classifications leave many things unexplained. Nawab Saiyid Muhammad Sahib Bahadur was one of the three Muslims who was able to get in through a joint electorate. He succeeded not because he was a title holder or a Muslim from a province where only six per cent of the population was Muslim, but because he was a leading member of the Indian National Congress and was later to become its General Secretary. Another member to succeed through general electorate was Nawab Abdul Majid. He was a titled landholder and President of the Muslim League. He succeeded because two of the Hindu landholder members of the United Provinces Legislative Council decided to vote for him.¹⁴⁶ The third member was a loyalist, Maulvi Abdul Karim Abu Ahmed Ghaznavi from Eastern Bengal and Assam, who was successful in the draw of lots consequent upon two members getting equal number of votes.¹⁴⁷ The election of two Muslim members was thus

¹⁴²Two seats assigned to European Chambers of Commerce have been excluded in this calculation.

¹⁴³*Mahratta*, 5 Jan. 1910.

¹⁴⁴Gokhale to Wedderburn, Dec., 1909, Gokhale Papers (203).

¹⁴⁵Minto to Clarke 15 Feb. 1910, Sydenham Papers (50837).

¹⁴⁶Letter from the Govt. of U.P., 25 Apr. 1910 Home (Public) A Progs., Nov. 1911, 164-84.

¹⁴⁷See notes, *Ibid*.

possible because non-Muslims voted for them while the third succeeded by sheer luck. On the other hand, Muslims like Jinnah, Haque and even the Raja of Mahmudabad who were known for their nationalist approach stood from reserved seats most probably because they did not want to further curtail the already limited openings available to their 'Hindu brethern'.¹⁴⁸ They had fair chances of success even in joint electorates. In other words it would be misleading to draw conclusion simply on the basis of denominational divisions.

After the first elections; many Hindu leaders seemed to regret having given support to the idea of allowing Muslims to participate in joint electorates as well and began to argue that special privileges for one community involved imposition of corresponding disabilities on other communities.¹⁴⁹ Madan Mohan Malaviya emerged as the most prominent spokesman of this view. On 24 January he moved a resolution recommending that a committee be appointed consisting of official and non-official members to consider and report on what changes should be made in the regulations 'so as to remove all legitimate complaints on the score of inequality in the treatment of the various subjects of His Majesty'.¹⁵⁰ In the speech moving this resolution he argued that the injustice it involved for the Hindus was an outcome not of imperial strategy but 'of certain mistakes of policies' and expressed a readiness to accept communal representation but not 'over-representation' of any community. The resolution led to an acrimonious debate between the communal minded Muslim members and others at the end of which Gokhale, with his usual moral fervour, appealed to Malaviya to withdraw the resolution which he did.

¹⁴⁸The Govt. of U.P. reported that unsuccessful attempts were made by the Muslim League to dissuade Muslims from standing in open elections. Govt. of U.P. to Govt. of India, 25 Apl. 1910, Home (Public) A Progs., Nov. 1911, 164-84. As a member of the Bombay Presidency Association, Jinnah had signed its memorandum against separate electorates sent to Lord Minto. S.P. Sen, *Dictionary of National Biography* (Calcutta, 1972), v. 2, p. 245.

¹⁴⁹Presidential Address of Malaviya to the Indian National Congress, 1909. Also his speech moving his resolution, ILCP, 24 Jan. 1911.

¹⁵⁰ILCP, 24 Jan. 1911, pp. 133-156.

The aim of the Government in giving special privileges to Muslims and landholders was not to correct 'imbalances' in Indian society but to gain their support. Administrative and political compulsions had driven the Government to adopt this course. In this context the question arises having entered the Legislature through special electorates so painstakingly created by the Government, did Muslim members support the Government on all issues? It seems the Government officials had expected that the representatives from special electorates would support them. But, as we shall see, barring some loyalist members who belonged to all categories of electorates, the Indian non official members, irrespective of the constituency or interest they represented, took a united stand on issues like repressive legislation, need for spread of education, curtailment of expenditure on railways, additional grant for irrigation and sanitation, need to adopt a protectionist policy and to abolish cotton excise duty etc. If anything, the debates in the Legislature tended to bring into focus the fact that there was identity of interest between all Indians irrespective of their diversities.

The Indian nationalists both Hindus and Muslims, had recognized from the beginning that the evolution of self government on the parliamentary model in India depended upon a satisfactory adjustment of inter-communal relations. This was the reason why in 1887 they had decided not to take up any such issue at the Indian National Congress sessions to which two thirds of the Muslim members objected. In the Legislative Council also they tried to steer clear of communal disharmony. Expressing disappointment with the debate over Council regulations which led to heated discussion of the question of separate electorates, K. Natrajan, editor of the *Indian Social Reformer* wrote to Gokhale, 'I wish Pandit Madan Mohan Malaviya had not brought up the Hindu Muslim question in the Council. So far the proceedings of that body have given the lie to the contention that Hindus and Muhammedans have distinct political and administrative interests'.¹⁵¹ They were also conscious that since the Indian in the Legislature had nothing to share amongst themselves, they had nothing to quarrel about and that they must co operate in first creating

¹⁵¹Natrajan to Gokhale, 28 Jan, 1911, Gokhale Papers, (375)

the necessary conditions for getting self-government. Appealing to Malaviya to withdraw his resolution on revision of regulations, Gokhale, in his characteristic style said, 'What does it really matter how many Hindus and how many Muslims sit in this Council? The more important question is how many of us work and in what spirit we work here.'¹⁵² The non-official members were not unaware that in the long run, the introduction of separate electorate, would foment separatist tendencies. In the same debate a Muslim member, Mazuh-rul Haque, for example, said:

My Lord, those lovers of India who are thinking, perhaps dreaming of a re-united India. however distant that time may be, cannot but believe that as an abstract principle this representation of Muhammadans by seprate electorates cannot but, to a certain extent, retard that consummation.¹⁵³

Not only did the non-official members make a conscious effort to maintain a unified stand in the Legislative Council, outside the chamber they also tried to establish harmonious relation between the two communities. After the Congress session of 1910 under the presidentship of William Wedderburn a conciliation meeting was arranged at Allahabad where Congress and the Muslim League members under the Agha Khan met with a view to strengthen friendly relations between various communities, Though much bitterness was seen at this meeting yet it is significant that the Hindu leaders tacitly accepted the separate electorates for the Muslims.

From 1910 onwards the Muslims, especially of the younger generation, began to see their role in the future as participation in the national movement. The second partition of Bengal in 1911, the slow progress of the Aligarh University scheme, the Kanpur mosque incident, disappointment with the British attitude towards Turkey during the Italy-Turkey war in 1911 and the Balkan wars and the debates on public questions in press, public platforms and the Council chambers tended to

¹⁵²ILCP, 24 Jan. 1911, p. 148.

¹⁵³*Ibid.*

convince these Muslims that there was similarity in the aims and aspirations of the Congress and the League and that there was scope for joint action. For a time Gokhale's prophecy that the interests of the Muslims 'are generally so far identical with ours that they are bound to come and range themselves on our side'¹⁵⁴ seemed to be coming true. At the 1911 session the Muslim League defined its goal as attainment of a system of self government suitable to India by bringing about, through constitutional means, a steady reform of the system of administration by promoting national unity and fostering public spirit among the people of India and by co operating with the other communities for the same purpose. The League had thus come a long way since 1906 when it was founded with the object of protecting and advancing the interests of the Muslims and promoting a sense of loyalty to the British Government.

During the First world war there was a feeling of expectancy in the air. In view of the prospect of changes in the constitutional framework a national front, consisting of the two dominant sections of the Congress and Muslim League, appeared as the need of the hour. In 1916, at Lucknow, the Congress, strengthened and buoyant after readmission of the extreme section, and the Muslim League held their sessions simultaneously and worked out an accepted formula for future constitutional advance under which the Congress accepted the system of separate electorates for Muslims until communal differences had been resolved. The Muslim League, on its part, conceded greater representation to Hindus in Muslim majority provinces. The resultant union filled Indians with pride and a feeling of nationalism which even the British officials could not ignore.¹⁵⁵

British officials were pleased with the success of the Muslims in the first elections and made no attempt to conceal their apparent pleasure at the failure of reconciliation efforts of the Hindu and Muslim leaders at Allahabad in 1911 and the acrimonious debate held on Malaviya's resolution regarding

¹⁵⁴Gokhale to Lawrence, 20 Jan 1909, Gokhale Papers, (203)

¹⁵⁵See Note by Meston, Lt Governor of U P, n.d., Home (Poll) Deposit Progs, May 1917, 3

Council regulations. The policy of checks and balances seemed to bear fruit. Butler, at that time wrote to his mother.

I am an optimist as regards India because I see that the nationalist movement has collapsed and that the communities are at strife and look to the Government to lead them. If our policy is liberal we are really the national government of the country.¹⁵⁶

In 1916 the officials were therefore surprised by what one of them described as 'the greatest marvel of all,'¹⁵⁷ the Congress-League rapprochement.

In 1911 when the prospect of unity between Hindu and Muslim leaders seemed very remote, J.L. Jenkins, the Home Member, replying to the debate on Malaviya's resolution, asking for revision of election regulations, had stated that the Government of India could not recede from their undertaking until the Muslims themselves come forward and said that they did not require special privileges, implying thereby that the Government would not consider the question of giving up separate electorates if the Muslim leaders said so.¹⁵⁸ It is interesting that as soon as the prospect of unity amongst the Hindus and Muslims appeared, the Government of India receded from his position. In the famous despatch on the question of further constitutional reforms sent by Hardinge's government on 24 November 1916, the Government of India recommended that Muslims should not have votes in the general constituencies as well, that franchise conditions should be the same for Hindus and Muslims, that when Muslims were in an electoral majority in a province, they did not need special protection, that all that Lord Morley's promise required was that, when Muslims were in a minority in a province, their representation on the Legislative councils should be somewhat higher than the number which a strict numerical proportion would give them and that it was not necessary in allotting special constituencies to go appreciably beyond the numerical

¹⁵⁶Butler to his mother, 6 Oct. 1911, Butler Papers (7).

¹⁵⁷Note by Meston, n.d., Home (Pol.) Deptt. Progs., May 1917, 3.

¹⁵⁸ILCP, 24 Jan. 1911, p. 150.

proportion in the matter of seats¹⁵⁹ Ultimately, however, the Government of India decided to retain separate electorates because the proposal to give them up had alarmed many Muslims and because the only alternative to separate electorates could be territorial electorates from which the Government always feared, the educated middle class would emerge successful¹⁶⁰

The immediate results of the introduction of the principle of weightage for Muslims and separate electorates were not in accordance with the prediction made earlier. Rather than contributing to the exacerbation of animosities based on religion, these features together with other developments both in India and outside it, tended to draw the leaders of the two communities nearer each other. But, in the long run, the venom of communalism showed its effect and poisoned the political life in India. The provisions of the Indian Councils Act of 1909 established religion as the touchstone of all political discussions and decisions. A Pondicherry newspaper, *Sarvodayam* commented in December 1909 that the term 'Indian' which was in vogue under the old system had given place to two terms Hindus and Muslims¹⁶¹. It gave sanction to the communal factor in Indian political institutions which could only accentuate bitterness and irritation among the people. By eliminating the need on the part of the Muslims standing from the reserved constituencies, to appeal to non Muslims, it tended to segregate them from the mainstream of the national movement. Further, it made it incumbent on these Muslim members to act as spokesmen of their community and prevented them from posing as spokesmen of all Indians even when they wanted to. In 1917, for example, Patel objected to Jinnah's posing as representative of Bombay¹⁶².

¹⁵⁹G G in C to S S, 24 Nov 1916 Home (Poll) A Progs, Dec 1916, 358

¹⁶⁰Committee on Indian Reforms Austen Chamberlain Papers, 21/4/4

¹⁶¹*Sarvodayam*, 5 Dec 1909 Native Newspapers Reports, Madras

¹⁶²ILCP, 25 Aug 1918, speech by Patel, p 390 1

Once this special privilege was given to adherents of a particular religion it was difficult to draw the line. In a speech in the House of Lords Morley inadvertently¹⁶³ referred to the extension of separate electorates 'to all stages'. The Muslim League leaders clung to this 'promise' and demanded separate electorates in elections to municipal councils and district boards. The Indian National Congress promptly condemned this demand. Many Muslims also were of the view that they should be satisfied with what they had got and should not demand any extension of this system.¹⁶⁴ A Muslim member, M.A. Jinnah, moved a resolution on this question at the 1901 session of the Congress at Allahabad. But Jinnah's speech on this occasion lacked the moral force which came from commitment to a cause.¹⁶⁵ The reason was not that he lacked sincerity or ability, but that he himself had been returned as representative of the Muslims of Bombay and it must have been awkward for him to condemn that very electorate. Voicing the feelings of the constituents is after all a legitimate political process. Jinnah was criticized by older members of the Muslim League and in the press. A Lahore paper asked him to resign his seat if he was not prepared to uphold the demand of the Muslims all through.¹⁶⁶ It was not possible to resist this demand and in course of time it gained more and more acceptability. The moderate leaders had perceived the effort of the special electorates in retarding the process of establishing national self-government but they were not able to evolve any alternative to it and subsequent attempts at rapprochement, as we have seen, were based on the pre-condition that separate electorates for the Muslims would be accepted by other communities. Similar demands from other sections of the population was only a

¹⁶³From the general tenor of his statement and notes it does not seem that he could have meant extension of separate electorates to local bodies. See File on Muhammedan Representation, Morley Papers, v. 35.

¹⁶⁴INCP, 1010, Speeches by Jinnah and Haque on Resolution No. XVI.

¹⁶⁵*Ibid.*

¹⁶⁶Cited in *The Mahratta*, 19 Feb. 1911.

a logical outcome ¹⁶⁷ The nationalist leaders had appealed for acceptance of special privileges for Muslims for a transitional period only until the minorities learnt to have confidence in the reasonableness of the majority or until it was sufficiently developed to stand on its own without additional privileges. But in all such cases it always happens that certain vested interests develop who gain by the perpetuation and extension of special privileges. This is what happened in India. Even the most fervent apologists of the Raj have not been able to meet the argument that by granting separate electorates to the Muslims, the British institutionalized communalism and thereby weakened the forces of nationalism.

¹⁶⁷S S Majithia, the non official member from Punjab and Hon Secy of the Chief Khalsa Dewan submitted a separate memorandum in 1916 demanding separate electorates for the Sikhs. Home (Public) Deposit Progs May 1918, 280

Chapter IV

Rules of the Uneven Game

Whatever be the composition of a legislative body and whatever the functions assigned to it, nothing can be achieved in a state of disorder. To transact public business in a proper way, it is essential to have a well-defined procedure for the conduct of business. The term procedure in this sense covers the mass of rules, conventions and practices by which a body regulates its functions and controls the conduct of its members and committees.

Ever since 1833 when a Law Member was added to the Executive Council for legislative purposes, separate rules of business had been adopted for legislative purposes. The revised rules adopted in 1854 provided for three readings of bills, reference of bills to select committee and public discussion of all business before it. Even after Indians were added to this body, by and large the same rules continued to regulate legislative business. In 1909, in addition to the right to put questions and to discuss the financial statement, the members were empowered to put supplementary questions and to move resolutions on matters of general public interest as well as on various items in the annual financial statement.

The rules, as we shall see, were modelled on the British parliamentary norms and procedure. This was significant. But while observing this similarity it must be borne in mind that there can be no comparison between a legislature in an

independent country where all its constituents accept the existing structure and work within its framework and a colonial legislature where the primary commitment of the dominant partner is to the maintenance of their empire and that of the other one is to the groups they are representing or to the people in the colonial state. A study of the rules of business in the latter situation can be rewarding if it is made in the context of following issues. What role was assigned to the legislature in the political structure? How did the Government view the role of the legislature particularly its non official sections? And, what was the conception of their own role in the eyes of the non official elements? In the Indian Legislative Council, the officials were in a perpetual majority having power to carry all motions in their favour irrespective of the arguments and trends in debates on various questions. The non-official members could achieve only some successes on a few matters of details by the good grace of the dominant side. From the side of the Government repeated references were made to the fact that it was not contemplating any transfer of power to the Indians and that the enlargement of the size and functions of the legislature were not designed to give Indians any training in the art of representative government. In a public despatch to the Secretary of State, the Government of India stated candidly

We are no advocates of representative government of India in the western sense of the term it could never be akin to the instincts of the many races composing the population of the Indian Empire. The Government of India must remain autocratic and the supreme power must be vested in British hands and cannot be delegated to any kind of representative assembly. The proposals which we recommend for your provisional acceptance represent an advance in the direction of associating the people of India with ourselves in the work of legislation and administration. They may fairly be described as an attempt to give to India something that may be called a constitution framed on sufficiently liberal lines to satisfy the legitimate aspirations of all but the most advanced Indians, while at the same time enlisting the support of the conservative element

of Indian society.¹

It is significant that although the non-official members could never hope to carry any motion against the Government, they took the opportunities provided under the Act very seriously. Undaunted by repeated failures, they moved amendment after amendment to each of the objectionable bills, moved resolution after resolution and asked questions. Since the non-official section was designed as a heterogeneous group it is interesting to analyze the extent to which they coalesced in opposition to British proposals and the extent to which they collaborated with the Government in running down one another. What was significant about the Morley-Minto Legislature was that it was a body where the Government was obliged to observe the rules of the game. While it could profess indifference to what the newspapers wrote and to what was said at public meetings, in the Legislature the officials had to provide answers to what was asked in the debates. It was this that they found most uncongenial and which, by making the imperialist ideology increasingly unacceptable, further eroded the foundations of the Raj.

The main business transacted in the Legislature, as established under the Indian Councils Act of 1909, was the passing of laws, interpellations and discussion of resolutions on matters of general public interest and on the financial statement. For the sake of convenience, the study of the procedure has been divided into three sections, namely, the general rules of business, the rules for the conduct of legislative business and rules for putting questions, moving resolutions and discussing the financial statement.

General Rules of Business

Technically the Legislative Council was merely an enlargement of the executive council when the latter met for making laws and regulations. But, in practice, it met twice a year—once in cold weather at Calcutta (at Delhi, from 1913 onwards) and once in hot weather at Simla. In official and un-

¹G.G. in C. to S.S., 21 Mar. 1907, Morley Papers, (32).

official correspondence these were referred to as 'sessions'. The use of the term 'session' was important because earlier Sir Charles Wood had objected to its use on the ground that it was unnecessary to introduce parliamentary terminology in India

Of the two sessions, the cold weather session was more important. As against an average of twelve meetings held during these sessions between 1910 and 1916, not more than three meetings were held at any of the sessions at Simla during the same period. At the latter place the work of the Council was confined strictly to unimportant and non-controversial matters.² Until 1916 only two resolutions were moved at Simla, one expressing India's loyalty to the Crown, and the other, regarding India's representation on the Imperial War Conference.³ These were permitted not with a view to providing additional opportunities for discussion to the non official members but to help the Government in securing the co operation of Indians in the War effort. In 1917, as a sop to the expectations of the moderates and in view of the general feeling that the non official members should be allowed to discuss the Report of the Public Service Commission, discussion of resolutions on this subject was allowed at the Simla session. At this session as many as nine meetings were held, 147 questions answered and notices of 47 resolutions given. From then on the Simla session became a full fledged session.

Until 1910 the reason given behind confining the Simla session to unimportant work had been that the non official members did not generally attend the Simla session. Between 1861 and 1890 more than thirty non official members never attended any meeting at Simla.⁴ It was pointed out that difficult means of communication, inconvenient social atmosphere and the expenses involved in staying there prevented the non-official members from attending the Simla session. But after 1910, in spite of the facts that the members belonged to comparatively less affluent sections and no important business was

²See *Practice and Procedure of the Government of India* (Calcutta, 1913), p. 175

³ILCP, 8 Sep. 1914 and 22 Sep. 1915 respectively

⁴B. B. Majumdar, *Indian Political Associations and Reform of Legislature* (Calcutta, 1965) pp. 328-31

transacted, the non-official members attended the Simla session 'in full swing'. The reasons are not difficult to surmise. With the introduction of elections, the Indians had to undergo considerable sacrifice of their leisure and money for securing a place in the Legislature and, therefore, they were more committed politically to their work in the Legislature. Moreover, many of the non-official members looked upon their membership as a complement to their work as politicians and journalists. They wanted the Government to make the Simla session also a full fledged session and complained bitterly when their resolutions were excluded from the list of business at Simla.⁵

The considerations that made Government continue the earlier practice till 1917 throw interesting light on the change in the nature of this legislative body. Earlier controversial subjects were not taken up at Simla because in view of the non-attendance of non-official members, the very object of including them would have been defeated.⁶

Full attendance at Simla, even when there was no important business to be transacted, did away with this argument in this connexion. The fear that haunted the Government after 1909 was that if the non-official members attended in full force, the Government measures might be outvoted. It was felt that it would be 'expensive and inconvenient' to summon all official members to Simla.⁷ The individual Members of the Government had their own reasons for opposing the extension of the Simla session. They hated the 'parliamentary' side of their duties. They foresaw that an extension of the Simla session would not relieve the pressure of work at Delhi since the 'verbosity and ingenuity' of non-official legislators were such that they would fill up the whole time given to them at Simla and start with renewed vigour at Delhi.⁸ When Madan Mohan Malaviya moved a resolution recommending that it should meet at least once in every quarter and once every week from December to March, J.H. Du Boulay, the Home Secretary, stated the reason candidly in a private note:

⁵Note by Vincent, 15 Mar. 1913, Leg. A Progs., June 1913, 36-41; see also Leg. A Progs., Apl. 1913, 240; Leg. A Sep. 1916, 133-5.

⁶See notes in Leg. A Progs., Sep. 1917, 20-5.

⁷See Leg. B Progs., Aug. 1913, 37-43.

⁸See Notes in Leg. A Progs., Sep. 1917, 20-5.

'It is bad enough to have two such periods per annum, and it will be almost impossible to get through the steadily increasing volume of Government business if two more were added'

Within a session there were a number of daily sittings. Between 1862 and 1892 764 meetings were held which gave an average of 24.6 working days in a year.¹⁰ The number of meetings did not increase after 1910.¹¹ But prolonged sittings became more frequent. More notable however, was the difference in the attitude of the non official members. While during 1862-1892, they were more or less indifferent to the work of the Legislative Council, during 1910-1920, they used more time of the Legislative Council than the official members did. All official members were expected to attend the meetings of the Legislative Council unless they had obtained leave of absence from the President.¹² But, after 1909, because of the prolonged and frequent sitting of the Legislative Council, official members did not sit through all the proceedings. In 1917, when Sastri moved his resolution on the Public Service Commission no one representing the Home Department was present.¹³ Indian members looked upon it as an evidence of the hollowness of the whole system. Official members, on the other hand tried to justify themselves by pointing out that they were only following the example of 'the mother of Parliaments'. They also looked upon their absence as an excellent check upon 'non official bores'.¹⁴ But it must be said that empty official benches did not dampen the enthusiasm of the non official members. The number of questions asked and resolutions moved continued to increase.

There was no authority to enforce the attendance of non official members. Between 1861 and 1893 absentee membership

⁹*Ibid*

¹⁰Majumdar, *op cit*, p. 336

¹¹The average worked out to 19 meetings per year

¹²Note to Section II of the Indian Councils Act of 1861, *Prac and Proce* (1913) p. 13

¹³Note by G. R. Lowndes, Law Member 1915-20, 8 May 1918, Leg (Delhi) Deposit Progs, Sep. 1918, 16

¹⁴See notes by G. R. Lowndes, 8 May 1918 and C. H. A. Hill, (Revenue & Agriculture Member, 1915-9), 14 May 1918, *Ibid*

was common. The Indian Councils Act of 1892 empowered the Government to declare vacant the seat of a member who was absent for more than two consecutive months. But non-official members 'appointed' under this act were quite regular in attendance because they took their responsibilities as Members of the Legislative Council seriously. After 1909 the problem of absentee membership disappeared altogether. The non-official members began to attend even the Simla session though it was not compulsory. The Regulations framed in 1909 provided that business could be transacted only at meetings at which in addition to the president, fifteen Members, of whom at least eight 'were non-officials, were present.¹⁵ No meeting was ever adjourned for want of a quorum.

The Governor-General himself was the president of the Legislative Council. After 1910, the Governor-General presided somewhat less frequently at the meetings. The reason given publicly was that 'the continuous and ever increasing pressure of work' made it difficult to attend all the meetings.¹⁶ But the real reason was stated by Hardinge in a private letter. He wrote that it was 'a mistake for the Viceroy to make himself too cheap'.¹⁷ However, the Viceroy presided when some trouble was anticipated. Hardinge held that his presence exercised a 'very great restrain' upon the non-official members.¹⁸ He could nominate some member of his Executive Council as vice-president¹⁹ and could appoint any member of the Executive Council to preside in his place or that of the vice-president.

The sessions of the Legislature were not formally inaugurated as Lord Minto wanted to avoid 'as much as possible' the adoption of any practice suggesting a resemblance between the Indian Legislature and British Parliament.²⁰ However, at the commencement of each session the Governor-General deliver-

¹⁵Regulation No XIII, Leg. Deptt. Notification No. 14, 16 Nov. 1909, *Gazette of India Extraordinary*, 1909.

¹⁶*Summary of Lord Hardinge's Administration*, p. 66.

¹⁷Hardinge to Chirol, 9 Mar. 1911, Hardinge Papers (117).

¹⁸This was done in the case of the Seditious Meeting Bill. See also Chelmsford to Montagu, 20 Sep. 1919, para 2, Chelmsford Papers (5).

¹⁹Edw. 7, c 4, s 4.

²⁰Telegram from P.S.V. to Local Governments, No. 1, 3 Jan. 1910, Minto Papers (M-986).

ally adhered to. But sometimes questions were asked directly and answered directly. This was done either during a speech by a member or as soon as he had finished speaking.

Among the official members, only those members participated in the deliberations who were directly concerned with the subject under discussion. This gave an air of unreality to the proceedings. The official bloc voted by automation finding its way with machine-like precision and unfailing accuracy in the Government lobby. From the point of view of the Government, it was a waste of manpower and brain capacity because the officials had to be withdrawn from their regular duties. Since the representatives of the European Chambers of Commerce almost always voted on the Government side, the divisions were formed also along racial lines.

Before 1909 the Members of the Legislative Council could deliver their speeches in languages other than English.²⁷ But after 1909, the proceedings were conducted in English only though, in the provincial councils, speeches were allowed in the language of the province.²⁸ The rules provided that any member could speak at the request and on behalf of another member who was unable to express himself in English.²⁹ The practice was that the secretary read the speeches of such members on their behalf. Generally, such speeches were taken as read and were printed as part of the day's proceedings. In 1920, when Sachchidananda Sinha, the representative of the non-official Members of the Legislative Council of Bihar and Orissa, was pulled up for a slip of the tongue, he even suggested that the proceedings should be conducted in Hindustani, 'a resultant of Hindi and Urdu'.³⁰

Unlike the House of Commons where members were not allowed to read a written speech³¹ there was no objection to reading a prepared speech in the Indian Legislature. Some

²⁷Majumdar, *op. cit.*, p. 321.

²⁸G.G. in C. to S.S., 5 Mar. 1919, para 28. *First Despatch on Indian Constitutional Reforms*, 1919.

²⁹Rule 11 of the Rules for Conduct of Legislative Business. *Prac. and Proc.* (1913). Also see Leg. B Progs., Apl. 1910, 247-52.

³⁰ILCP, 19 Sep. 1919, p. 371.

³¹G.C.B. Campion, *An Introduction to the Procedure of the House of Commons* (London, 1958), p. 190.

Members used to read long pre-prepared speeches which were very prosy and were sometimes totally unrelated to the debate. This tended to make the proceedings 'awfully dull' ³² As early as 1896, it was suggested that this practice ought to be dealt with by some rule prohibiting the reading of written speeches ³³ In 1917, Wacha's resolution prohibiting the reading of speeches in the Legislature was admitted. But because of the 'earnest appeals' made by some of the non official members, he withdrew the resolution without discussion, a decision which was welcomed with loud applause ³⁴ The Government, however, was not interested in either restricting or prohibiting the reading of written speeches on political ground. Many members, who supported the Government, could not speak extempore. From the official point of view the only result of such a restriction would have been to put a premium on 'the professional politician' and to place the supporters of the Government in a disadvantageous position ³⁵

On motions concerning legislation, the members could speak as long as they liked. However, in case of resolutions, they could speak for fifteen minutes each while the mover could speak for thirty minutes. This time limit was frequently exceeded. Towards the end of the period, considerable latitude was given to members to enable them to express their views. Sometimes, they resorted to dilatory tactics. On the Rowlatt Bill, Malaviya, 'the man with marathon eloquence', spoke for 150 minutes. On 18 September 1919, on the Indemnity Bill, he spoke for four hours continuously and in all he spoke for six and a half hours on the bill ³⁶ The Government gave this latitude because it wanted to provide them with an outlet for their feelings and to avoid adding to their displeasure by preventing them even from saying what they wanted.

It was the duty of the president to preserve order and all points of dispute were decided by him. No discussion was

³²Indian Diary, Delhi 27 Jan 1913, Montagu Papers (40)

³³See note by Elgin, 22 May 1896. Leg. A Progs., Feb 1897, 29 36

³⁴ILCP, 22 Mar 1917, p. 530

³⁵Note by H E Richards, 12 Apr 1909, Home (Public) A Progs., Sep 1909, 74 86

³⁶ILCP, 18 Sep 1919, pp. 294 330

allowed on the President's decision unless he himself considered it desirable to take the consensus of the Council. The president had the authority to enforce his decision.³⁷ In the beginning, as G.F. Wilson, the Finance Member, noted in 1912, the members showed a determination to respect the rulings of the Chair so as to maintain order in debates and uphold the honour and good name of the Legislature.³⁸ Lord Hardinge too, in his memoirs, admitted that on two occasions he had given wrong decisions which he reversed later and that this tended to make his relation with the 'Legislative Assembly' more genial and friendly.³⁹ During the later years readiness to respect the rulings from the chair diminished.

During the debates some undesirable references were sometime made either to the long speeches of members or to their conduct in general, especially from the official benches. This created rancorous feelings. The *Indu* of Bombay, for example, complained that the officials showed an unjustifiable tendency to indulge in sneers at the expense of Indian members.⁴⁰ In 1910, J.L. Jenkins, the Home Member, for example, made a sneering reference to 'the stream of oratory which . . . gives me a very lively idea of what Sydney Smith means by punishment of being preached to death by wild curates' and offered a mock apology 'for not following into the innermost recesses of their argument'.⁴¹ The President did reproach the members for such references. In such cases the president had to be on guard in dealing with both official and non-official members because the Indian press made much capital out of such incidents. With reference to the above incident, the *Dhyan Prakash* of Bombay published a cartoon in which the Viceroy was represented as expostulating with the Hon'ble Mr. Jenkins who was depicted as holding his ears in a repentent mood.⁴² On 19 September 1918, W.H. Vincent was snubbed by the vice-

³⁷Rule 7 of the Rules of Legislative Business, *Prac. and Proc.* (1913).

³⁸G.F. Wilson, *Letters to Nobody* (London, 1921), p. 186.

³⁹Hardinge, *My Indian Years* (London, 1948), p. 66.

⁴⁰*Indu*, 11 Aug. 1910, Native Newspapers Report, Bombay, p. 11.

⁴¹ILCP, Speech by Jenkins, 6 Aug. 1910, p. 67.

⁴²*Dhyan Prakash*, 8 Aug. 1910, Native Newspapers Report, Bombay, p. 18.

president when he taun'ed Khaparde for inconsistency ⁴³

Sometimes non official members also made taunting comments In 1920, when the Indian Territorial Force Bill was under consideration, V S S Sastri referred to the 'inertia in the military policy of the Government' The Commander in Chief, who was not accustomed to such criticism, angrily retorted 'What does Mr Sastri know about it He knows so little and is so entirely ignorant of any military matters that, so far as I am concerned, I pass it by' ⁴⁴ To this Sastri hit back 'But at the same time I wish to add for the information of His Excellency the Commander in Chief that if he has never heard before of the inertia of the Military Department, he has not heard of something which everybody else has heard of and known' ⁴⁵

The most dramatic incident in this context occurred in 1917 when Sir Michael O'Dwyer delivered a speech in which he sang the praise of the fighting races of Punjab and contrasted it with the conduct of the nationalist leaders, especially those in Bengal ⁴⁶ There was great indignation in the Press and to pacify Indian opinion, Lord Chelmsford said at the next meeting that his appeal for moderation had been ignored by one of his own officers ⁴⁷ The Governor General's speech was regarded both by Indians and Europeans as a rebuke to O'Dwyer This incident, coming immediately after the release of Annie Besant, the main force behind the Home Rule movement, created annoyance among the Europeans in India This incident exacerbated racial bitterness to such an extent that at least at that time, it seemed that the incident would lead to results likely to prove of permanent importance ⁴⁸

Every controversial motion in the Legislature was decided by a majority vote The votes were taken generally by voice But in case of doubt or when a member so demanded, votes were taken by a show of hands When these methods failed

⁴³See G I Patel *Vithalbhai Patel Life and Times* (Bombay, 1950), v 1, p 317

⁴⁴ILCP, Speech by Commander in Chief, ILCP 16 Sep 1920, p 298

⁴⁵Speech by Sastri, *Ibid*, p 299

⁴⁶Speech by M O Dwyer 13 Sep 1917, ILCP pp 226-37

⁴⁷ILCP, 19 Sep 1917, p 271

⁴⁸See *Round Table*, June 1918, No 31, 568

to yield the desired result, the vote cast by each member was recorded. This made it possible to know on which side each member voted and also enabled division to be recorded in the official report of the proceedings.

As the Government had a standing majority in the Legislature, the result of any division was a foregone conclusion. In 1910 it was made clear that the members of the Executive Council as well as the official members from the provinces were required to support the Government. As already pointed out, during Chelmsford's period, the officials were encouraged to take part in the proceedings of the Legislative Council. But this did not mean that they were given freedom of speech and vote. In the circular conveying this decision, it was also pointed out that they would be required to support the line of action advocated by the member in charge. It was transparent that all decisions were really the decisions of the Executive Council. The British were conscious of all the disadvantages of adopting this procedure which were summarised in a very forthright manner by Montagu in a private letter to the Viceroy:

We are agreed that official block is a detestable thing. . . . It makes you pack your Council, which ought to be a collection of statesmen so far as it can be with undertrappers and underlings whose judgement you do not want on any question. It interferes with, and is the chief cause of the dislocation of departments which you regret. It flings a jibe in as clumsy a manner as possible, at the elected and nominated non-official element in the Council. It makes your legislative decisions a fraud and a sham. . . . It prevents the official . . . from exercising his judgement on the destinies of India, degrades him in the eyes of his colleagues in the Legislative Council, and increases and focusses on the hideous antagonism between the officials and the general public.⁴⁹

But in an administrative structure where the governed were given a right only to voice their opinion by the grace of the government, no other arrangement was possible. The Govern-

⁴⁹Montagu to Chelmsford, 15 Mar. 1918, Chelmsford Papers (4).

ment was not unconscious of the fact that non official votes would increase the legitimacy of its decisions in the eyes of the politically conscious people and made every effort to secure them R H Craddock who was a member of the Executive Council from 'the last session of the first Morley Minto Legislative Council to the first session of the last of these Councils' said that it was a point of honour with the Government to secure as many votes in support of its measures as it could ⁶⁰ For this purpose it canvassed amongst non officials and tried to ascertain their views in advance The Government of India also realized the futility of forcing the official members to vote one way or the other In the first despatch on the Reforms sent on 5 March 1919, it recommended that the officials should be allowed not merely to express their views but also to give vent to their opinion by the exercise of vote as full members of the Legislature and also in some measure, as representing the views of the masses ⁶¹ In 1920 officials were given freedom of vote in the specific cases of the Religious and Charitable Endowments Bill and the Labour Contract Bill But such freedom was meaningless from the Indian point of view because the *raison d'être* of the official members was to defend the Government of which they were a part

Complete unanimity amongst the non official members did not ever make the Government change its announced policy In 1908 when Morley had accepted the need for official majority in the Legislature he forewarned the Government 'If, however, a combination of all the non official Members against the Government were to occur, that might be a very good reason for thinking that the proposed measure was really open to objections and should not be proceeded with' ⁶² His idea was that if a measure evoked such unanimous and concerted opposition, it was to be accepted that it was exceptionally objectionable and should not be proceeded with There were occasions when on questions like the removal of cotton excise duty, management of railways, opposition to the passing of Rowlatt bills,

⁶⁰R H Craddock, *Dilemma in India* (London, 1929), 143

⁶¹First Despatch on Indian Constitutional Reforms (1919), para 90

⁶²S S to G G in C, 27 Nov 1908, para 19, Home (Public) A Progs, Feb 1909, 205-44

working of the Press Act, Indian labour under the system of indenture, when members representing diverse interests and creeds did speak and vote unanimously. But even this unanimity was completely disregarded and the counting of votes was regarded simply as a matter of simple arithmetic. What is remarkable about the proceedings is the dogged persistence of Indian members in moving amendment after amendment in session after session to each objectionable clause of each bill and resolution after resolution on matters of general public interest and on each item in the financial statement in spite of their foreknowledge that none of these was likely to be accepted. The *Chronicle* drew up a table of resolutions introduced in the central and provincial legislatures during the budget session of 1917 and worked out that of a total of 109 resolutions moved, were 71 withdrawn, 36 were rejected and not even one was accepted by any Government.⁵³ Each defeat was accepted gracefully because their purpose was not just to point out shortcomings of the policies to Government officials but also to educate public opinion. The defeats in the Legislature on issues which had been raised from various public platforms and in the press only brought discredit to the moderate sections of the nationalist leadership and to the method adopted by them. It was becoming increasingly obvious that it was futile to try to convert the government by argument.

Rules of Legislative Business

All proposals for legislation were initiated in the form of bills which, when passed by the Legislature and assented to by the Governor-General, became acts. In India this practice began in 1835 when the provisions of the Charter Act of 1833 came into operation. Since that year, India ceased to be governed by executive made regulations and was, instead, governed by acts which were passed after 'mature deliberations'.

In the Legislative Council, as was pointed out in the 'Practice and Procedure of the Government of India' itself, the stages in the passing of a bill corresponded to the three read-

⁵³Cited in G.A. Natesan, *What India wants* (Madras, 1917), p. 77.

ings in the British Parliament. There, all bills, irrespective of which House they were introduced in, had to go through the following stages: First Reading which was formal, Second Reading when a broad debate on the bill took place, Committee Stage when the details of the bill were examined, Report stage, when the results of the Committee stage were reviewed and amendments considered, and the Third Reading when the bill was debated and passed. In the Indian Legislative Council the stages were

- (1) Motion, after due notice, for leave to introduce a bill followed by its formal introduction and publication for criticism. This corresponded to the practice in the British Parliament up to the First Reading.
- (2) Reference of the bill, with any opinions received, to a Select Committee. This corresponded to the Second Reading in British Parliament and the motion that the bill be committed.
- (3) Consideration in Council of the Select Committee Report and of any further amendments that were brought forward. This corresponded to the Third Reading in the British Parliament.
- (4) Motion that the bill as amended be passed.⁵¹ The form of a bill also corresponded to the British form. Every bill had a long title, enacting formula and then the clauses.

At each stage of the passage of all bills, Indian members showed a determination not to permit the Government to bypass their right to be heard. Even seemingly innocuous measures like consolidating and amending bills or bills to extend the date of expiry of an act did not escape minute scrutiny at their hands. As we shall see, Government was not always right in calculating the reception which a particular proposal would get. The prior sanction of the Governor General was needed for introducing bills on subjects mentioned in section 19 of the Indian Councils Act of 1861. The rules of legislative business did not make separate provision for non official members' bills.

⁵¹*Prac and Proc* (1913)

except the latter required three days prior notice. In the case of Government bills, no such notice was required. These could be introduced by publishing them in the Gazette of India. The non-official members often complained about this practice. In the case of controversial bills, a copy was given to the non-official members in advance to soften their opposition.

After 1909, it was increasingly realized that three days was too short a time for examining bills. Moreover, as the members were required to submit only the title of the bill and not the bill itself, the Government did not have any means of knowing its contents. This led to an interesting controversy lasting from 1911 to 1917. The question was first raised in 1911 by Crewe, the Secretary of State, when Gokhale introduced his Elementary Education Bill. Crewe suggested that as the Bill proposed a change in the Indian revenue, the sanction of the Secretary of State was necessary under the Government of India Act of 1858.⁵⁵ He pointed to the need to have a proper procedure in such cases.⁵⁶ But it was not possible for the Government of India to do so without extending the time of giving notice of bills.

Members of the Executive Council also advocated the necessity of increasing the period of notice on various grounds. They pointed out that in view of the fact that fifteen days' notice was required for resolutions, it was 'ridiculous' that only one-fifth of that time should be required in case of bills.⁵⁷ Secondly, they felt if the period of notice was not increased, the Council would be 'swamped by numerous private measures to great hinderance to Government business' and that even in the British House of Commons, the time allotted to the private member's bills was very limited.⁵⁸ They further pointed out that Government bills introduced in the provincial legislative councils had to be sent to the Government of India two months in advance. They wanted that this practice should be extended to bills which non-official Members intended to

⁵⁵S.S. to G.G. in C. Public No. 128, 28 July 1911, para 2, Leg. A Progs., Apl. 1913, 305-51.

⁵⁶Ibid.

⁵⁷Note by Macpherson, 23 Sep. 1911, Leg. A Progs., Jan. 1912, 34-5.

⁵⁸Note by Craddock, 13 Aug. 1912, Leg. A Progs., July 1914, 6-22.

introduce in the Central Legislature ⁵⁹ S A Imam, the only Indian Member of the Executive Council, opposed this suggestion. He pointed out that statutory restrictions imposed on legislative initiative of non official Members under Sections 19 and 22 of the Act of 1861 covered as much ground in favour of executive control as was possible short of a total denial of the right of introducing a bill without having to seek previous sanction ⁶⁰ But the Government of India decided to postpone the issue, not because the problem was not causing any concern, but because 'to do so might have the effect of precipitating a demand for general revision' a contingency which the Government wanted to avoid ⁶¹

This question of revision came to the forefront in 1917 when Malaviya tried to introduce a bill to abolish emigration under indenture with three days' notice of the title of the bill. The Government used to come to know of the contents of non official member's bill when it was submitted for printing at the Government Press. But Malaviya got his bill printed privately. This was seen as an indication of a desire on his part to catch the Government unawares ⁶² The Government of India thereupon proposed a revision of rules extending the period of notice for bills, which non official members intended to introduce, to two months and agreeing to give a copy of Government bills to the non official members one day in advance ⁶³ The Government did not anticipate any 'reasonable ground for objection' on the part of the non official members. But when the question was taken up in the Legislative Council the general opinion of the Council was voiced by M A Jinnah who said 'the period which he (the Members in charge) calls a reasonable period in favour of the Government is unreasonable, and the period which he calls a reasonable period in favour of non official Members is also unreasonable' ⁶⁴ Finally,

⁵⁹See correspondence with Bombay Govt, *Ibid*, and G G in C to S S, Leg No 13, 22 Dec 1916 para 4, Leg A Progs, Mar 1917, 1 10

⁶⁰Note by S A Imam, 4 Aug 1912, Leg A Progs, Mar 1917, 1 10

⁶¹S S to G G in C, Leg No 2, 26 June 1914, para 4 Home (Public) B Progs, Nov 1914, 171

⁶²See Leg A Progs, Mar 1917, 1-10

⁶³G G in C to S S, Leg No 13, 22, Dec 1916, para 4, *Ibid*

⁶⁴Speech by Jinnah, ILCP, 7 Feb 1917, p 164 (words in parenthesis added)

the Government had to yield to the pressure of Indian members in both these respects.⁶⁵ The Select Committee, to which the rules were referred reduced the period of prior notice of non-official members' bills to one month and fixed the period for giving a copy of Government bills to non-official members to three days. This was accepted by the Government and holds good to this day.⁶⁶

Passage of Bills

After due notice was furnished, on the day on which the motion for leave to introduce a bill was included in the list of business, the member who gave this notice moved for leave to introduce the bill. After this was granted, it was formally introduced.

After a bill was introduced, or on some subsequent occasion, the Member in charge of the bill could make one of the following motions: that it be circulated for the purpose of eliciting public opinion thereon, or that it be taken into consideration by the Council either at once or at some future day to be mentioned at the time of introduction, or that it be referred to a select committee.⁶⁷

The motion for circulation was not generally made because bills on which opinions were desired were circulated as a matter of course immediately after their introduction and without an order under this clause. In 1916, in the case of a 'private member's bill'—Chimanlal Setalvad's Disposition of Property Bill—an attempt was made to refer it to a select committee on the same day on which leave to introduce it was granted without circulating it because the Government of India saw

⁶⁵G.G., in C. to S. S., Leg. No. 13, 22 Dec. 1916, para 4, Leg. A Progs., Mar. 1917, 1-10.

⁶⁶Leg. A Progs., Mar. 1917, 1-10. For present day practice see Rule 65 (3) of the *Rules of Procedure and Conduct of Business in Lok Sabha*, op. cit.

⁶⁷Rule 19 of the Rules of Legislative Business, *Prac. and Proc.*(1913). This rule holds good even in the present day Lok Sabha. See A.R. Mukherjea. *Parliamentary Procedure in Ind'a* (Oxford University Press, 1958), p. 150.

'no reason to regard the Bill as controversial' ⁶⁸ Moreover, it was considered to be 'merely an enabling Bill' ⁶⁹ and Setalvad argued that the two communities concerned had suffered so long and so patiently under disability that the time had arrived when they should be speedily relieved of it ⁷⁰ But, in the Legislature, the motion was opposed by some of the non official members on the ground that such a change should not be enforced without consulting the two communities. An amendment, moved by M B Dadabhoy, was finally accepted and the bill was circulated for eliciting public opinion. It is significant that the provisions of the bill were opposed by Muslims and the bill, as finally passed, applied only to Hindus ⁷¹ In this case, the opposition of non official members prevented the imposition of a law on an unwilling community.

After the introduction of a bill a motion could be made that it be taken into consideration either at once or at some subsequent date. This motion, in other words, meant that the Legislature could forego some of the stages of the bill. This was resorted to in case of bills which were either of a routine nature and therefore was likely to lead to discussion, or in the case of those bills which seemed to the Government to be of immediate importance. During the War, this motion was frequently made for bills designed to deal with War conditions and it was not opposed because the non official members did not want to embarrass the Government at that time. Of the sixteen bills introduced in 1915, fourteen were passed without reference to any select committee. In case of the Defence of India Bill, however, Banerjee, Malaviya, Rahimtoola and Chitnavis approached Craddock, the Home Member, asking him to refer the Bills to a select committee. But he did not concede their request on the ground that it would involve unnecessary delay. But the real reason which he did not state publicly, was his fear that in the select committee the non official members would try to emasculate the bill of all the provisions which

⁶⁸G G in C to SS, Home (Judl) No 24, 5 Nov 1915, Leg A Progs, Oct 1916, 44-83

⁶⁹Speech by Setalvad on motion to refer the bill to Select committee, ILCP, 22 Feb 1918, pp 128-9

⁷⁰*Ibid*, p 137

⁷¹Act XV of 1916

were designed to check the method of seditionists and revolutionaries.⁷² Their request was apparently turned down.

Controversial and important bills were generally referred to select committees. In moving that a bill be referred to a select committee, the mover did not ordinarily make any observation since he had already explained the measure at the introduction stage. But reference of a bill to a select committee corresponded to the Second Reading in the British Parliament and marked an important stage when the principle of bill was discussed, and affirmed or rejected. Moreover, until this motion was made, members did not get an opportunity to discuss the bill. On this occasion they were prepared with their remarks. It followed that once the motion that the bill be referred to a Select Committee was carried, the government took it for granted that the principle of the bill was accepted and details alone remained to be settled. In 1911, W.C. Clark, the Member-in-charge of Commerce and Industry Department, complained rather bitterly when the Members of the Select Committee to consider the White Phosphorous Matches Bill started discussing the principle of the bill.⁷³ In 1919, when the Rowlatt Bill came up for consideration Malaviya, Patel and Khaparde insisted that the principles of the bills should be allowed to be discussed in the select committee. When this was ruled out of order, they abstained from attending subsequent meetings.

Sometimes the non-official Members did succeed in forcing the Government to depart from this practice. In 1911, J.L. Jenkins, the Home Member, introduced the Delegation Bill to enable the Government to delegate powers and duties to lower authorities by notification on behalf of the Government. When the motion for reference of the Bill to a select committee was moved, the non-official members did not oppose it. But Gokhale said categorically ' . . . We should not be understood to assent to the principle of the Bill. On the face of it, the Bill looks like asking the Legislature to grant a blank cheque to the executive in certain matters.'⁷⁴ Finally, the bill was withdrawn. Again in 1917, in case of Malaviya's Indian Registra-

⁷²Craddock to Hardinge, 17 Mar. 1915, Hardinge Papers (89).

⁷³Speech by Clark, ILCP, 1 Mar. 1912, pp, 334-7.

⁷⁴Speech by Gokhale, *Ibid.*, 10 Jan. 1912, p. 76.

tion (Amendment) Bill, keeping in view the unfavourable nature of majority of the opinions received, the consideration of the principles of the bill was deferred till it was first revised in the select committee. In 1919, the non official members agreed to the motion for reference of the Cotton Cloth Bill to the select committee reserving their right to oppose it in principle as well as in details at a later stage ⁷⁵

When a motion was for reference of a bill to a select committee, its members were named by the Member moving such a motion ⁷⁶ There was no hard and fast rule selecting the Members except that the Law Member was to be a member of of every select committee ⁷⁷ Usually, it consisted of an uneven number of Members varying in accordance with the importance of the bill referred to The Select Committee appointed to consider the Factories Bill had as many as seventeen members Official members were in majority even on the select committee

Only those Members were generally appointed to a select committee who could be interested in the measure For example in case of the Factories Bill, the Government was careful to secure a strong representation of the factory interests involved ⁷⁸ The members, whom the Government intended to appoint, were consulted in advance ⁷⁹ In case of the Factories Bill, Mudholkar suggested his own name and this was accepted Care was taken to secure representation of different provinces in appointing members to select committee It must be noted that in spite of the reputation of Patel, Khaparde, Malaviya and Jinnah as extremist members, they were frequently appointed to Select Committees, even on controversial bills like the Rowlatt Bills The reason was that in view of the changed atmosphere outside the Legislature, the Government wanted to provide them with an opportunity for expressing their views and thus prevent them from indulging in 'irresponsible criti-

⁷⁵Speech by Jinnah, 11 Sep 1918 *Ibid*, p 222

⁷⁶Note to Rule 24 of the Rules of Legislative Business, *Prac and Proc* (1913)

⁷⁷Rule 24, *Ibid*

⁷⁸Robertson's speech moving that the bill be referred to Select Committee, ILCP, 3 Jan 1911, p 84

⁷⁹For example, see papers relating to Act XII of 1911

cism'. In any case the Government could enact any measure it wanted by virtue of its official majority. The association of these leaders of moderate opinion could make such measures more palatable to the people outside.

The deliberations of the Select Committee logically culminated in the preparation of a report designed to inform the Legislature of the opinions and findings of the committee. Such a report could not be made earlier than three months from the date of the first publication of the bill in the Gazette of India, unless the Council ordered otherwise.⁸⁰ In the case of the Press Bill (1910), the report was presented within three days. This was frequently done in case of urgent or uncontroversial measures.

In Britain, a Minute of Dissent cannot be appended to the report of a Select Committee.⁸¹ But the British Government in India, which had been characterized as 'Government by writing' had allowed the members of the Government of India to append minute or note to a despatch to the Court of Directors and later to the Secretary of State in case they did not agree with the views expressed in the despatch. In the absence of public opinion and the remoteness of the place from where the ultimate control was exercised, this acted as a check on different members of the bureaucracy. The practice of writing minute of dissent to select committee reports was an outgrowth of this practice. This practice of writing Minutes of Dissent continues to the present day.⁸² Official members could not append such minutes. In 1914, G.H.B. Kenrick, the Advocate General of Bengal and an official member of the Legislature, did not want to sign the report because he did not agree with some of the conclusions arrived at. But he was not allowed to do so. He was told that the decision of the select committee was the decision of the Government and as an official he was bound by it. The absence of his signatures in the circumstance was bound to be a subject of comment.⁸³

⁸⁰Rule 25 of Rules of Legislative Business, *Prac. and Proc.* (1913).

⁸¹May, *op. cit.*, p. 617.

⁸²*Rules of Procedure and Conduct of Business in Lok Sabha, op. cit.*, Rule 303 (4).

⁸³Note by Vincent on the Indian Companies Bill, 18 Feb 1914, Leg. A Progs., Apl. 1914, 85-124.

The member, who submitted a minute of dissent, also had to sign the report. This question became a hot issue in 1919 when three members of the select committee appointed to consider one of the Rowlatt Bills, Malaviya, Patel and Khaparde, indicated their desire to submit their minute of dissent without signing the report. For this reason they wanted to call their minute a 'Minority Report'.⁸¹ But they were not allowed to do so. Chelmsford ruled in the Legislature

The Council has a right to know that the correctness of the Report as an account of the proceedings of the Committee, irrespective of differences of opinion upon its details, is undisputed, and this can only be secured by the signature of the Members. This has been the established practice of the Council. It goes without saying that no Member of a Committee can invalidate a report by refusing to sign.⁸²

In its report, the Select Committee was required to say whether the bill had been so altered as to require re-publication. If re-publication was not required, the reasons had to be stated.⁸³ But generally re-publication was not ordered even though the bills were sufficiently amended and added to in the select committee.⁸⁷ In fact, as A P Muddiman, Deputy Secretary in the Legislative Department, stated in connexion with the Indian Companies Bill 'For the general proposition that new matter was frequently introduced into the Bill at Select Committee stage, I need adduce no precedent, the course is so common that none can be necessary, and that Bills so amended are passed into law without republication is a common place'.⁸⁸ However,

⁸¹For controversy on this issue see Leg B Progs., May 1913 45

⁸²Speech by G G., 12 Mar 1919, ILPC, p 867

⁸³Rule 25 of Rules of Legislative Business, *Prac and Proc* (1913)

⁸⁷For example, the Indian Extradition (Amendment) Bill, 1913, The Administrator General's Bill, 1913 and the Transfer of Property (Validating) Bill, 1917

⁸⁸Note by A P Muddiman, 26 Feb 1913, Leg A Progs., Apr 1914, 85 124

clauses on the subject of managing agents, met with 'considerable opposition' and in deference to the wishes of the non-official members of the select committee, the clauses relating to the question of managing agents were re-circulated for eliciting public opinion. These clauses were passed a year later in the form of a separate Act which came into operation with the main Act.⁸⁹

The report of the select committee could be taken into consideration as soon as it was convenient. It was presented by the Member-in-charge of the bill. Any member could object to its being taken into consideration if he was not furnished with a copy of the Report a week in advance.⁹⁰ When this motion was moved, a debate followed in the course of which any member could propose that the consideration of the report be postponed. In the case of the Rowlatt Bill, three amendments were moved to this motion.

After the motion that the 'Bill be taken into consideration' or that the 'Report of the Select Committee be taken into consideration' was carried, amendments could be moved.⁹¹ The amendments were considered in the order of the clauses to which they related. A member who wanted to move an amendment had to move it formally before speaking on it. An amendment could be moved to the short title of the bill or any of its clauses or to the annexed schedules.⁹² The members of the select committee could also move amendments to the bill as amended by the Select Committee. On 18 March 1913, when the Report of the Select Committee on the Indian Companies Bill came up for consideration, Sita Nath Ray, who was a member of the select committee, moved thirteen amendments to the bill. Of these, one was withdrawn and the rest were negated.⁹³ But this was not always the case. A.M. Monteath, representative of the Bengal Chamber of Commerce

⁸⁹Act XI of 1914.

⁹⁰Rule 27 of the Rules of Legislative Business, *Prac. and Proc.* (1913).

⁹¹*Ibid.*, Rule 28.

⁹²This was done in cases of the Indian Factories Bill and the Indian Companies (Amendment) see ILCP, 18 Mar. 1911 and 21 Mar. 1913 respectively.

⁹³*Ibid.*, 18 Mar. 1913.

and another member of the select committee, moved for omission of clause 77 of the same bill. He had accepted that clause in the select committee. Yet, in the Legislature, this amendment was accepted. There was nothing to prevent the Member in charge of a bill from moving amendments to his own bill.

Generally, only those parts of the bill were taken up in the Legislature to which amendments were proposed. This procedure was based on the assumption that the rest of the clauses were accepted unopposed. However, the rules provided that when a motion to take a bill into consideration was carried, the President could, on his own discretion, submit any part of the bill to the Legislature for a clause by clause consideration. As a result, all opposition had to become vocal if it wished to be effective. In this respect the practice in the Indian Legislature resembled the practice followed in the American Congress and was adopted because it saved time. In the British House of Commons, on the other hand, it was customary to vote on every paragraph of bill whether or not amendments were proposed. However, the Anarchical and Revolutionary Crimes Bill was considered clause by clause because of the large number of amendments on the agenda.

After all the amendments were disposed of, the motion was made that the bill, as amended, be passed. After this motion was carried the bill required the assent of the Governor General. Though the Governor General could reserve the act for the signature of His Majesty, in practice this was never done.

Questions

The procedure about the wording, subject matter, form and content of questions and resolutions, both on matters of general public interest and the financial statement was, so far as possible, laid down in the rules of business.⁹⁵ Though the

⁹⁵Rule 31 of the Rules of Legislative Business *Prac and Proc* (1913)

⁹⁶Rules framed under section 5 of the Indian Councils Act of 1909 and published in the *Ga zette of India Extraordinary* 15 Nov 1909

rules did not make any distinction between official and non-official members, in practice the exercise of the rights was confined to non-official members.⁹⁶

Non-official Members took full advantage of this right. With the passage of time the number of questions and resolutions moved in the Legislature increased. As compared to 151 questions put and answered in 1911, in 1919, 397 questions were put and answered. However, the average number of questions per meeting remained fairly constant.⁹⁷ On 12 September 1917, as many as 46 questions were put and answered. The longest question in this respect was put by Kamini Kumar Chanda regarding a prisoner named J.C. Ghose which contained as many as fifteen heads.⁹⁸ Some members put more questions than others. In the Delhi session of 1918. Maharaja M.C. Nandi was responsible for as many as forty-one questions to which answers were actually given.⁹⁹ In the Delhi session of 1920, Patel gave notice of as many as 116 questions.¹⁰⁰

Under the rules framed in 1892, the non-official members were empowered to put questions on any subject, subject to the general power of disallowance vested in the Governor-General. The Provincial Governments were in favour of restricting the discretion of the Members in certain cases. But, Lord Lansdowne, the Governor-General, stated:

I can conceive that under certain circumstances the Government of India might be glad to be interpellated even upon questions affecting its foreign policy...As long as the constitution of the Council remains what it is at present, the danger of abuse will probably not be great.¹⁰¹

Under the rules framed in 1909, certain restrictions were imposed. No question was permitted in regard to any matter affecting the relations of His Majesty's Government or the Govern-

⁹⁶ILCP, 9 Sep. 1918, 159-70

⁹⁷See Appendix II.

⁹⁸ILCP, 22 Mar. 1918, Question No. 19, p. 241.

⁹⁹See Leg. B. Progs., May 1920, 107-8.

¹⁰⁰See Leg. B Progs., June 1919, 45.

¹⁰¹Minute by Lansdowne, 16 Jan 1892, para 5, Home (Public) A Progs., Aug. 1892, 237-52.

ment of India with any foreign or Native State or any matter under adjudication by a court of law¹⁰² Comprehensive rules were also laid down in regard to the form of questions The questions were not to be of excessive length and were required to be so framed as to be merely requests for information Further, no question containing arguments, inferences, ironical expressions, defamatory statements, remarks on character of persons except in their public capacity or asking for the solution of a hypothetical proposition could be admitted On matters which were or had been subjects of controversy between the Governor-General in Council and the Secretary of State or a provincial Government, no question could be asked except as to matters of fact The President could disallow any question, or any part of it, without giving any reason other than that in his opinion it could not be answered consistently with public interest or that it should be put in the provincial legislative Council No discussion was permitted in respect of any such order of the President¹⁰³

In 1909, the period of notice was increased from three to ten days However, the President could allow a question to be put at shorter notice¹⁰⁴ This was done sometimes for political reasons In march 1910 Chitnavis's question regarding the announcement to be made with reference to countervailing excise duty on tobacco manufactured in India was answered before the time because there was 'a good deal of uneasiness on the subject'¹⁰⁵ During the same month, Armstrong's question about amendment of the Bombay Port Trust Act was answered before time to allay uneasy feeling in European commercial circles in Bombay¹⁰⁶ It also happened that some questions could not be answered on expiry of ten days¹⁰⁷ Questions on the financial statement were admitted on two clear days'

¹⁰²Rules for Asking Questions published under Notification No 25, *Gazettee in the India Extraordinary*, 15 Nov 1909, Rule 3 Hereafter referred to as Rules for Asking Questions (1909)

¹⁰³Rule 9, *Ibid* This position remains practically unaltered See Mukherjee, *op cit*, p 96

¹⁰⁴Rule 6, *Ibid*

¹⁰⁵See note by Meston (Secy, Finance Deptt), 14 Mar 1910, *Leg, B Progs*, Apl 1910, 82 6

¹⁰⁶See *Leg B Progs* Apl 1910, 160 6

¹⁰⁷See for example, *Leg B Progs*, Apl 1910, 259 64

notice. Till 1909, question of an absentee member could be put by some other member if the member so desired.¹⁰⁸ After 1909, this was not allowed.¹⁰⁹ In 1912, in view of the increase in the work of the Legislature, the manner of putting questions was changed on the lines of the procedure followed in the British Parliament. Henceforth, the member who wanted to put a question did not read out the question at length but merely said: 'I beg to put question number——'.¹¹⁰

Though the right to put questions was conceded in 1892, supplementary questions were not allowed until 1900. When the question of constitutional reform came up during Lord Minto's time, it was pointed out that without the right of putting supplementary questions, a system of formal questions met by formal replies tended to become unreal and ineffective and that in an 'assembly' in which 'free discussion and debate' were permitted and encouraged, there could be no sufficient reason for prohibiting this method of expressing indirectly the opinions and wishes of the questioners.¹¹¹ Consequently, in 1909, the member who put the original question was empowered to put supplementary questions also.¹¹² This was a significant concession because in Britain also supplementaries developed only in the 1880s and even till the beginning of the twentieth century these were viewed with suspicion.¹¹³ The Member in charge could refuse to answer a supplementary or ask for fresh notice.¹¹⁴ Since supplementary questions were supposed to be put extempore and without notice, they were left to be allowed or disallowed extempore by the President.¹¹⁵

¹⁰⁸Rules for Asking Questions (1892), Rule 6.

¹⁰⁹Govt. of India to Govt. of Bihar and Orissa, 16 Apl. 1913, Leg. B Progs., Apl. 1913, 120-2. See also Home (Judi) Dep. Progs., Aug. 1910, 7 and Home (Reforms) B Progs., Sep. 1919, 172.

¹¹⁰Speech by Wilson, 27 Feb. 1912. ILCP, p. 207.

¹¹¹S.S. to G.G. in C., Public No. 193, 27 Nov, 1908, para 30, Home (Public) A Progs., Feb. 1909, 205-44

¹¹²Rules for Asking Questions (1909), Rule 12.

¹¹³Chester and Bowring, *Questions in Parliament* (Oxford, 1962), 44-8.

¹¹⁴Rules for Asking Questions (1909), Rule 13.

¹¹⁵See Leg. B Progs. Aug. 1919, 28-35.

The non official members asked questions for various purposes. Sometimes questions were put to get information for preparing their speeches on various bills and resolutions. Gokhale and Jinnah did this in respect of their Education Bill and the Wakf Validating Bill respectively.¹¹⁶ Questions like the action taken under the Press Act, the number of papers required to furnish security under the Act, political trials, internment cases, correspondence with the Secretary of State, etc., were put with this end in view. Some questions were put to focus the attention of the Government and the public on certain issues. Questions which began with 'Has the attention of the Government been drawn to the following' or 'Is the Government aware' served this purpose. Sometimes some questions were asked to voice some individual grievances. Khaparde mentions in his diary that some young men wanted him to put a question in the Legislature about his brother and that after seeing his papers Khaparde felt that he could not do so.¹¹⁷ Some Government officials began to complain that the real purposes of non officials was not to get information but to get publicity and to satisfy their electorates by having a record of having done something. As A P Muddiman, Secretary, Legislative Department, pointed out, that one member used to publish a booklet for circulation recounting his work in the Legislature and that it was not unusual for these members to ask for information which they could get from published records. Lord Hardinge also pointed out that it was a great safety valve for the members to be able to air their views in order that they may be reproduced in the press of their respective provinces.¹¹⁸ This could be true of only a minority of members. Most of the members were recognized political leaders of their day and all their activities received very wide coverage at least in the Indian press.

The Government had complete control over the admissibility of questions. In the beginning the Legislative Department adopted a patronising attitude and endeavoured to correct all notices of all questions with a view to bringing them within rules

¹¹⁶Leg B Progs., Feb 1910, 238-40, Leg B Progs., Mar, 1910, 158-63. Also Home (Public) Deposit Progs, July 1912, 19.

¹¹⁷Khaparde Diaries, 5 Mar 1920.

¹¹⁸Hardinge to Morley, 29 Mar 1911, Morley Papers (26).

The number of questions returned demi-officially for this purpose was large. In most cases the members confessed their ignorance of the procedure and readily accepted the suggestions made by the Department.¹¹⁹ But with the passage of time the officials began to look upon such correspondence as burdensome.¹²⁰ As regards answers to questions the official policy was not to disallow a question if it could be answered even in the negative and to give as positive an answer as could be given. Minto had asked Departments not to refuse any information except on grounds of policy.¹²¹ But during Harding's time, in fact as early as 1911, a change became noticeable in the attitude of officials. They became averse to imparting information because as a senior official stated, 'such information was almost invariably asked for in order to use it against the government.'¹²² In the same year G.F. Wilson's suggestion that in case of statistical information asked for it may be stated that the advantage derived from such compilation was not commensurate with the time and labour involved, was accepted.¹²³ During the closing years the officials started complaining that questions were intended to be trappy and were difficult to answer.¹²⁴

There were two views amongst Government officials about preparing answers to questions. Some of the officials argued that an answer to a question should not be 'treated as a peg on which to deliver defence of our policy.'¹²⁵ Others argued that if the Government policy was indicated in answers to questions, many hours of discussion in the Legislature would be saved. It was the earlier course which was generally adopted. Answers to questions were prepared in all seriousness and were some-

¹¹⁹See Jinnah's notice of question re. Wakf Law, Leg. B Progs., Mar. 1910, 158-63; Gokhale's re. Deportation of Indians from Transvaal, Leg. B Progs., Sep. 1910, 9-14 and Basu's re. forfeiture of newspapers etc., Leg. B Progs., Aug. 1910, 208-11.

¹²⁰See Leg. Deptt. Progs., Sep. 1918, 16.

¹²¹See Wilson to DuBoulay, 25 Sep. 1911, Harding Papers (82).

¹²²DuBoulay to Wilson, 26 Sep. 1911, *Ibid*,

¹²³*Ibid*.

¹²⁴Note by C.R. Cleveland, 9 Sep. 1918, Leg. B Progs., Oct. 1918, 114-5.

¹²⁵See note by Carlyle, Revenue and Agriculture Member, 3 Feb. 1910, Leg. B Progs., Feb. 1910, 142-4.

times sympathetic. Sometimes an opportunity was taken to justify the stand of the Government. In 1910, for example, T R Wynne, President of the Railway Board, not only answered Dadabhoy's question regarding casualties on Indian railways but took the opportunity to assure the people that though mistakes would occur, every effort would be made to reduce the number of accidents.¹²⁶ An attempt was also made to avoid a direct negative. To take one example, Minto noted on one of the questions, 'I think it might be better if in answering Mr Dadabhoy as to ethical education, you were to say a little more to the effect that the Government of India thoroughly appreciate the importance of the subject. We are always accused of being too curt.'¹²⁷ All this is not to say that negative answers were not given. The reply that 'the matter is one on which the Government of India are not in a position to make any statement' was not infrequent. The reason was stated by one of the officials in 1914 'We must not let these gentlemen think that because they ask a question, they will, as a matter of course, get answer to suit their taste.'¹²⁸ One can readily agree with the report of Committee of India Office on Indian Reforms that the general character or replies to interpellations in the Indian Legislatures would compare favourably with those given in other legislative bodies.¹²⁹

Discussion of Resolutions and the Financial Statement

In 1909, the Members of the Legislature were empowered to move resolutions on matters of general public interest and the financial statement. The rules for discussion of these two types of resolutions were the same. Moreover, though the latter were moved in the form of cuts in the budget, all resolutions served the same purpose. The rules concerning these resolutions have, therefore, been taken up together. Resolutions

¹²⁶ILCP, Mar 1910, p 187

¹²⁷ Note by Minto, Leg A Progs, Mar 1910, Apl 1910, 100 10
See also Leg B Progs, Mar 1910, 158 63

¹²⁸Note by Wilson, 17 Mar 1910, Leg B Progs, Apl 1910, 223 4

¹²⁹Second Special Committee on Indian Reforms, 26 Oct 1917, Chamberlain Papers (91)

had to be in the form of specific recommendations addressed to the Governor-General-in-Council.¹³⁰ The rules as to the admissibility of resolutions were the same as those governing the asking of questions except that a resolution could not be moved on a subject on which the Legislature could not legislate.

The discussion of resolutions on matters of general public interest took place after all other business of the day had been concluded.¹³¹ The general rules applicable to the discussion of of any motion before the Legislature applied to resolutions also. The main difference was that while on bills the members could speak as they liked, on resolutions, the mover could speak only for thirty minutes while other members could speak for fifteen minutes each. In practice, this time-limit was found to be insufficient and therefore, in 1918, the rules were so amended as to allow any Member to speak for thirty minutes on a budget resolution with the permission of the President.¹³²

When a resolution was under discussion, any member, subject to the conditions relating to moving a resolution, could move an amendment.¹³³ In case an amendment was moved, it had to be accepted or rejected by the whole Council and not by the member moving the resolution. The President could close the discussion by calling upon the mover to reply after, in his opinion, it was sufficiently discussed. Once a resolution was moved, it could either be accepted or rejected after a division or withdrawn with or without discussion.

The financial statement was discussed in three stages. At the first stage, the Finance Member explained the statement which contained the preliminary financial estimates for the next financial year. Such a statement had been presented since

¹³⁰Rules for the discussion of Matters of General Public Interest and Rules for the discussion of Annual Financial Statement published under Leg. Deptt. Notifications Nos. 24 and 23 respectively, 15 Nov. 1909, *Gazette of India Extraordinary*, 1909, Rules 4 (a) and 6 (a) respectively.

¹³¹Rules for the discussion of Matters of General Public Interest (1909), Rule 10,

¹³²Leg. Deptt, Notification No. 15, 7 Feb. 1918, Amendment to Rule 12, *Gazette of India Extraordinary*, 1918.

¹³³ Rules for the Discussion of Matters of General Public Interest (1900), Rule 16.

1860. But, over the years, the size of this statement increased. The first statement, presented in 1860, covered just one sheet of paper and the figures in support, seven. In 1910, the remarks of the Finance Member covered seventy three foolscap sheets of close print and the whole budget debate covered 376 pages. This continued till 1919. In that year, instead of reciting a lengthy narrative, the Finance Member ran through the chief features of the statement and gave details in the appendices which the members could study at leisure.

After the financial statement was presented, the bills dealing with enhanced taxation were introduced. These bills formed an essential and integral part of budget proposals and had to be passed before the final budget was presented. As it was unreasonable to expect the members to speak on the spur of moment on large and complicated questions connected with fiscal matters, the statement was considered at a subsequent date. On this day, all members were given liberty to move any resolution entered in their name in the list of business relating to any alteration in taxation, any new loan or any additional grant to local Governments proposed or mentioned in the financial statement or the explanatory memorandum accompanying it.¹³⁴ Every such resolution was discussed in the prescribed manner.

The second stage was devoted to the explanation of such of the detailed heads of the budget as were declared open to discussion by the Members in charge of various Departments and to the disposal of resolutions moved on them.¹³⁵ It was open to members to move resolutions calling attention to any matter which was directly relevant to the figures under consideration, to criticize the necessity for any entry in the statement or to ask for further information on it.¹³⁶ To avoid the use of British parliamentary phraseology, the Government of India purposely abstained from calling this stage the committee stage.¹³⁷ However, in all correspondence, both official and

¹³⁴Rules for the Discussion of the Annual Financial Statement (1909) Rule 3 (2)

¹³⁵*Ibid* For the Heads open to discussion see Schedule to Rule 4 (2)

¹³⁶Rule 4, *Ibid*

¹³⁷G G in C to S S, Home (Public) No 16, 16 Sep 1909, para 2, Home (Public) A Progs, Sep 1909, 74 86

unofficial, it was referred to as the 'Committee Stage'.

The third stage began towards the end of March when the budget was presented in its final shape embodying all the modifications resulting from detailed discussion.¹³⁸ At an adjourned meeting; the members were given full liberty to make any observation they liked. But at this stage, they were not permitted to move any resolution nor could the budget be submitted to the vote of the Legislature.¹³⁹ Thus, in addition to the discussion on detailed figures, the old liberty of general criticism was retained. But, in view of the facility of exhaustive examination, attempt was made to cut down the general debate by giving each member twenty minutes to speak. To save the members 'the trouble of composing lengthy speech' Lord Hardinge announced this decision in the Legislature.¹⁴⁰ The non-official members took full advantage of this opportunity. After the general debate, the Finance Member made a speech by way of reply which imposed upon him an obligation to explain why certain resolutions had not been accepted. The discussion was closed by the President with such observations as he considered necessary. In 1918 the general debate at the third stage was abolished and instead the Members were given an opportunity to discuss the general principles of the Financial Statement immediately after it was presented.

This procedure admitted of every conceivable subject being discussed during the budget debate. In fact the Finance Member himself pointed out that the debate assumed the character of a debate on the adjournment in the House of Commons.¹⁴¹

The members greatly valued their right to move resolutions on matters of general public interest and the financial statement. The number of resolutions that the Members wanted to move exceeded far beyond the time at their disposal which was the only limit to the number of resolutions they could move. As a result there was a wide disparity between the number of resolutions which the members wanted to move and the number actually moved. It was even suggested that a system of ballot should

¹³⁸Rules for the discussion of the Annual Financial Statement (1909), Rule 21 (1).

¹³⁹Rule 25, *Ibid*.

¹⁴⁰Speech by the President, ILCP 23 Mar. 1910, p. 615.

¹⁴¹Wilson, *Letters to Nobody*, p. 60.

be introduced for this purpose. Within the framework of rules the non official members tried to make the executive responsible to the Legislature. For example, they frequently moved resolutions recommending that a committee of official and non-official members be appointed to report on various matters. The non official members argued that no constitutional objection could be raised to the moving of such resolutions because such committees could be advisory only and would not take away responsibility from the Government.¹⁴² Between 1910, and 1914 as many as thirty such resolutions were permitted of which thirteen were withdrawn, thirteen were rejected and only four were accepted. However the Government's purpose of conciliating Indian opinion was not fulfilled after accepting these resolutions because, as the Home Member complained, the reports of such committees were denounced by certain sections of the press and the public.¹⁴³

As in the case of questions, the rules regarding admissibility of resolutions were also liberally interpreted. The rules provided that no resolution could be moved on a subject on which the Legislative Council could not legislate.¹⁴⁴ This clause was capable of being construed in such a way as to bar discussion on subjects such as Civil Service Examination, establishment of Executive Councils for Lieutenant Governors and contracts with railway companies. But resolutions on these subject were frequently moved.¹⁴⁵

Once a resolution was moved in the Legislature, it could either be accepted, with or without amendment, rejected with or without division, or withdrawn. During the debate, the practice of the Government was not to intervene until several members had spoken and their general reaction ascertained. Where the Government agreed partially with a resolution but could not accept it in the form in which it was moved, it frequently staved off rejection by promising to enquire into the matter or by moving an amendment either from the official benches or through some non official member by having *pour*

¹⁴²Speech by Banerjee, ILCP, 19 Mar 1918, p 1109

¹⁴³Speech by Vincent, ILCP, 19 Sep 1918, p 290

¹⁴⁴Rules for the discussion of Matters of General Public Interest (1909), Rule 3 (a)

¹⁴⁵See notes in Leg. A Progs., Feb 1911, 15 and 49-56

parlers with the member concerned.¹⁴⁶ This explains why so many of the resolutions were withdrawn. For example, in 1917, when Malaviya gave notice of a resolution regarding the grant of commissions to the Indians in the army, G.R. Lowndes suggested 'as a sop to the mover' that if he asked a question on the same subject, a sympathetic reply might be given.¹⁴⁷ However, from Government point of view there was a disadvantage in inducing a member to withdraw. He could go around saying that he had done so under pressure from the Government and create the impression that the Government was afraid to face the situation.¹⁴⁸ In case a resolution on a subject on which feeling outside the Council was strong was allowed, the Government took care to secure the co-operation of some of the non-official members 'in order to put the right point of view' and to add weight to their case. Two resolutions—on India's loyalty to the Empire and representation of India on the Imperial War Conference—were inspired by the Government officials.¹⁴⁹

On the whole it must be said that although the Government had controlling power in respect of the admission of questions and resolutions, it did take the rights of the non-official Members seriously recognizing the political importance of the proceedings of the Legislature. Questions and resolutions which were within rules, were admitted, most of the time knowing fully well that raising of these questions would only bring discredit to the Government.

The Relevance of the Game

The foregoing narrative makes it clear that the rules of business in the Indian Legislature were modelled on the lines of the British parliamentary procedure. This was in part natural because, as Claude H. Hill, a member of the Executive Council, wrote 'We, on our side, had nothing to give India except

¹⁴⁶For example, see Banerjea, *A Nation in Making* (Oxford University Press, 1963), edn. 2, p. 277.

¹⁴⁷See Leg, B Progs., Mar. 1917, 316.

¹⁴⁸Meyer to Hardinge, 3 Mar. 1914, Hardinge Papers (112).

¹⁴⁹See Vincent to Chitnavis, 24 Aug. 1915, Chitnavis Papers and Hardinge to Chirol, 2 Sep. 1915, Hardinge Papers (94).

institutions which we ourselves were familiar ¹⁵⁰ It may also be pointed out here that the members of the British Indian Civil Service had no personal experience of the working of parliamentary institutions in their own country and it can clearly be discerned from their notes and correspondence that they viewed these institutions with anything but admiration

The British parliamentary model was adopted largely in 1854 and was allowed to continue in 1862 So long as the membership of the Legislative body was confined either to Europeans or to loyal non officials, there was no chance of any harm being caused to the initiative of the Executive and there was every advantage in assuring full publicity and consultation in legislative decisions In fact, during this period, the whole emphasis in framing and interpreting rules was towards providing additional opportunities and inducements to non official Members The non official members were also paid a fixed sum of Rupees 10,000 annually which was not assessable to income tax or to annuity fund reduction But when the size of the Council was increased considerably, under the Indian Councils Act of 1909 and especially when the nature of membership changed because of introduction of elections and the rising aspirations of Indians, the old patronizing attitude gave place to impatience with the demands of Indians During this period, in laying down rules for payment of allowances, language of speeches and attendance at meetings, the government no longer showed any concern about giving facilities to the non official Members or inducing them to take more interest in the proceedings Their allowances were also curtailed Some of the officials even suggested that, as the non-official Members had become elected representatives, their services were no longer for higher and, therefore, they should not be paid ¹⁵¹

¹⁵⁰C H Hill, *India—Step Mother* (London, 1929), 282

¹⁵¹See Sir Harvey Adamson to H T White (Lieutenant Governor of Burma), Demi official No 92, 27 Apl 1908, Home (Public) Deposit Progs, Apl 1908, No 37 After 1909 the members were paid a daily allowance of Rupees twenty plus travelling allowance which was subject to an annual limit of Rupees 3,000

The dominant feature of the proceedings, however, was that even on questions on which there was practical unanimity amongst all the non-official members who were assembled to represent the varying interests, the Government did not respond by any positive gesture. Acting like a chorus in a Greek Tragedy the official bloc silently voted down all their propositions. This disappointed, even irritated, the non-official members. Speaking on the Indemnity Bill, Sachidananda Sinha appropriately read out a parody of Tennyson's poem:

Theirs not to reason why,
Theirs not to make reply,
Theirs but to vote and die.¹⁵²

The spectacle of 'thirty-five valiant soldiers' voting down the proposals of the Indian members was indeed demoralizing. The questions arise: Why they went into the Legislature? Secondly, having entered the Legislature, why did they show such dogged persistence? They certainly had no illusions about their real standing in the Legislature. Once, when Gokhale was inadvertently described as 'the Leader of the Opposition', he stood up and explained: '... we are far away yet from the time when the Government will exchange places with private men in this Council and until that time comes, there can be no opposition here as the term is understood in western countries.'¹⁵³ Not even the most sanguine amongst those who opposed various measures ever believed that their protests would ever deter the Government. Still they continued to participate in the debate without any bitterness.

The officials, on their part, tried to patronise them by interpreting the rules liberally and by giving them a patient hearing. Hardinge, who was the president for the major part of the period under study, was diffident about his ability to make speeches and did not like what he described as 'the parliamentary side of his duties.'¹⁵⁴ But even he found the non-official

¹⁵²ILCP, 9 Sep. 1919, p. 368.

¹⁵³ILCP, 20 Mar. 1911, pp. 572-3.

¹⁵⁴Hardinge to the King, 19 Feb. 1913, Hardinge Papers (105).

members to be 'very easy to manage, very courteous and very well behaved' His analysis of the motivation of the Indian members was interesting He was convinced that they participated in debates because they loved to talk, that they would be contented if they were given an opportunity to 'let off steam' and that it was 'a great safety valve for them to be able to air their views in order that they may be reproduced in the local press of their respective provinces'¹⁵⁵ He often dismissed their criticism of government policy as an outcome 'of a sentimental nature'¹⁵⁶ He asked the Home Member to release a copy of the Defence of India bill one day in advance because he thought, as he put it 'we are much more likely to have the Council with us if we trust them than if we flout them'¹⁵⁷ He also believed that his appeal on behalf of the future generations of India had a marvellous effect on the members and helped in sobering them down

This type of reasoning betrayed a lack of appreciation of the methods of work and goal of these moderate leaders Their dogged persistence in taking up various issues again and again with the same sincerity every time was an outcome not of their sentimental nature or desire for publicity It followed from deep analysis of each problem and their efforts to apprise the rulers that the policies they were adopting were not framed in the interests of the ruled They also wanted to give a proof of their own ability as responsible legislators so that the 'benign' rulers would transfer more power to Indians During the first three years, in spite of disappointment with the unyielding stance assumed by the Government on issues like the Seditious Meetings Bill, Gokhale's Primary Education Bill, railway rates and management, cotton excise duties etc, the non official members did not give up hope On the eve of his departure for Britain in May 1912, Gokhale said at a farewell at the Ripon Club that the reforms had cleared the jungle, that their ideas were formulated and that lines of national advance were

¹⁵⁵Hardinge to Ritchie (US of State for India) 29 Mar 1911, Hardinge Papers (117) Also Hardinge to Morley, 29 Mar 1911, Morley Papers

¹⁵⁶Hardinge to Crewe, 9 Sep 1914, Hardinge Papers (120) See also Hardinge *My Indian Years* (London, 1948)

¹⁵⁷Hardinge to Morley, 16 Mar 1911, Morley Papers

laid down'.¹⁵⁸

Towards the end of Hardinge's period, a change in the behaviour of the members could be easily discerned. Even amongst the representatives of landholders and Muslims, tendency to work with other non-officials against the government became very noticeable. The system of 'checks and balances' seemed to be failing. The officials noted with concern that the more moderate men were 'being shouldered out of the Council' and that the Muslims and landowning members were being brought 'to heel by the Congress Party'.¹⁵⁹ In a memorandum, nineteen non-official members of the legislature put forward a scheme for further constitutional reforms. It was prepared in a hurry and was not a well-formulated political programme. Still it moved all the latent alarms in official circles. J.H. DuBoulay, the Home Member, noted: 'This means frankly home rule in domestic affairs. The nineteen want Home Rule *at once*'.¹⁶⁰

By Chelmsford's period, the Government of India had started giving thought to the means of working out ways of transferring responsibility to Indians gradually. The success of such a policy depended on the co-operation of substantial section of Indians. The moderate section of the nationalist leadership appeared to be the only group which could give sustenance to government policies. As a sop to the moderate leaders, Chelmsford's government represented to the Secretary of State that on questions which were not of vital importance, freedom of voting should be conceded to officials because 'in this way the status of the Council as a Council, where all alike tender their opinion freely, will be preserved instead of a fixed division being formed between the officials as the Government and the non-officials as the opposition'.¹⁶¹ But this did not make the Government's position more comfortable. The manner in which the Rowlatt Bill was forced through the Legislature

¹⁵⁸*The Mahratta*, 5 May 1912.

¹⁵⁹Note by Craddock appended to G.G. in C. to S.S. 9 Sep. 1915, para 27, Home (Political) A Progs., Dec. 1916, 358.

¹⁶⁰Note by DuBoulay, n. d., Home (Public) Deposit Progs., May 1918, 280.

¹⁶¹Memorandum regarding Provincial Legislative Councils, 27 July 1916, Chelmsford Papers (51).

in spite of unanimous opposition both inside and outside the legislature, made it difficult for men like Banerjea, Shastri and Patel either to make themselves heard in Indian politics or to co operate with the Government openly. Montague lamented that it was 'very hard to keep the moderate flag flying in India, even in any country just now. The war has unchained feelings which are almost beyond the power of the Government to check'.¹⁶²

Writing in April 1910 G F Wilson, the Finance Member, noted that the non official members would 'work the reform with credit to themselves and advantage to their country'.¹⁶³ Time proved him right. They conducted themselves in the manner of old parliamentary hands. Their speeches were generally marked by cogency, logical vigour and irresistible power of carrying a conviction which the service of a cause could not fail to impart. If they failed in inducing the Government to adopt policies which they advocated, it was not for lack of ability or want of effort on their part.

The Morley-Minto Councils were also significant from the point of view of evolution of parliamentary procedure in India. It is interesting to note that in some ways, mainly for the sake of convenience, the Government departed from the procedure in the British House of Commons. For example, to enable loyalist members who had no experience of using a public platform the reading of written speeches was allowed. This is not permitted in the British House of Commons. In continuation of the old practice of writing minute of dissent to despatches sent to Britain, the members were allowed to append minutes of dissent to the reports of the select committee. Similarly, while in British House of Commons each clause of each bill was submitted to the House for approval, in India following the American practice only those clauses were considered to which objection was raised by submitting amendments. These practices have largely been adopted by the Lok Sabha of independent India.

¹⁶²Montagu to Ronaldshay, 12 Feb 1919, Montagu Papers (27)

¹⁶³Wilson, *Letters to Nobody, 1908-1913* (London, 1921), p. 61

Chapter V

Legislature at Work:

Repression and Conciliation

The British rulers had become conscious at least since the revolt of 1857 that their empire in India had a precarious existence whose basis was not so much similarity of interests between the rulers and the ruled but force and firmness on the part of the rulers. With the growth of nationalism in India public speeches and writings of Indian leaders focussed increasingly on the alien and un-Indian nature of the policies adopted by the Government. Such feelings were summarized by the Government of India in a telegram to the Secretary of State as follows:

The press incessantly preaches that the Government is foreign, and, therefore tyrannical, that it drains the country of its wealth for selfish ends, that it is the cause of famine, plague and malaria, that equal justice is not rendered to Europeans and Indians, in short it has enslaved a whole people and that the only remedy is independence.¹

¹G.G. to S.S., 31 Jan. 1910, Leg. A Progs., Mar. 1910, 4-12.

Such views were indeed detrimental to the *Raj*. A section of the people, albeit a very small one, had also taken to terrorist activities to make it difficult for the British to govern. The continuance of the Empire depended on the Government's ability to prevent the spread of such ideas. But in evolving any strategy for dealing with the situation, the British officials had to take cognizance of several factors. First, there was Parliament in Britain which was morally responsible for the Indian administration. It is true that most of its members did not take interest in Indian affairs unless the policies adopted in India adversely affected their constituents. But there were always some members who took keen interest. Secondly, in adopting policies in India the British had to take into account their reputation as a freedom loving people committed to the rule of law and unaccustomed to tsarist methods of dealing with anti government activity. And for acting lawfully, laws had to be processed through the Legislature. The passage of these laws provided occasions for debate between imperialist strategy and nationalist ideology. A study of debates shows that British bureaucracy found it difficult to resolve the inherent ideological tension between theoretical adherence to democratic ideas and recourse to repression as means of political survival. The Government did not seek to rule by repression alone. It also tried to enlarge the basis of support for the *Raj* by introducing such changes in administrative structure as could satisfy those sections of Indian society who were ready to recognise the need for its continuation at least for some considerable time.

This section of the nationalist leadership which entered the Legislature declared most sincerely that their hopes for the future were bound up with the maintenance of British rule at least until the paraphernalia for self-government could be created in India and that in all measures reasonably necessary for the maintenance of the *Raj* the Government was entitled to their co operation and support. But the Government and these Indian leaders differed on the interpretation of the acceptable limits of agitation and the methods of dealing with it. They argued that the root causes of opposition to British rule were lack of trust shown by the rulers and a growing feeling among the people that their grievances were not redressed. They wanted the Government to follow such policies as would inculc-

ate trust in their intentions by associating more Indians with the work of administration and policy-making and not sow suspicion by adopting repressive measures. It may also be noted that while intellectually they were repelled by resort to violence, they were emotionally sympathetic to the terrorists and admired their courage and spirit of sacrifice. Malaviya, for example, was reported to have said that 'his head was with the moderates but his heart was with the extremists.'² At the same time they were also conscious that the process of transfer of responsibility and power to Indians would be retarded by terrorist activities and existence of revolutionary organizations. The Government officials often put forward their proposals embodying repressive legislation as test cases, challenging Indian members to prove that they were ready to act responsibly and that they were fit to be entrusted with the tasks of administration.³ The moderates who were always keen to prove their own ability to rule and looked to the Government to grant necessary powers were put on the horns of a dilemma which was stated succinctly by Shastri in connection with Khaparde's motion in September 1918 recommending that the report of the Sedition Committee be kept in abeyance:

The vote was meant to be a test vote, and would have cost us more than we could have saved. A terrible weapon would have been—by our own hands—put into those of our enemies. England would have been rent with cries of 'no reforms'—and this country would have replied with vigorous agitation. And we shall be having merry times now—heroics all round.⁴

The debate on the Rowlatt Bills proved to be the swan song of the Moderate era. The passing of the Rowlatt Act was followed by the first countrywide agitation against the Government.

²Butler to Chelmsford, 14 Aug. 1917, Butler Papers.

³This argument was used many times, e.g., in the cases of the Press Bill, 1910, Seditious Meetings Bill, 1911, Defence of India Bill in 1914, while asking for contribution of £100 millions in 1918 etc.

⁴Shastri to Vaze, 11 Oct. 1918, Shastri Papers (263).

The Press Act, 1910

The first motion that came up for discussion before the enlarged Legislature was a repressive measure—the Press Bill. In 1907, in view of the continuing agitation in Bengal, the Government of India had passed an act for the prevention of seditious meetings.⁵ The original bill did not have any time limit, but at the Select Committee stage it was limited to three years. In the year of its passing, the Act was extended only to the province of Eastern Bengal and Assam. By the end of 1908 'seditionist' activity seemed to have subsided. But during 1909 there were some fresh cases of political violence and in November 1909 an attempt was made on the life of the Viceroy. At this stage the Intelligence Department came across the reports of what it called 'the physical force party'.⁶ Though no clues as to the nature, extent, membership or methods of any such group could be unearthed, and no overt acts of violence were reported, still the Home Department concluded that it was necessary to extend the duration of the Prevention of Seditious Meetings Act and to pass a general press law.⁷ They did not regard the Incitement to Offences Act (Act VII of 1908) sufficient because it was confined to newspapers. They wanted a law covering leaflets, pamphlets and the like by establishing control over the printing presses as well as the newspapers. The members of the Executive Council wanted these as preventive measures in the Government armoury to be kept ready for use in case of need. They were conscious of the opposition they were likely to face in the Legislative Council.⁸ But they argued that it was far better to meet and overcome opposition that was anticipated once and for all than to be forced into hurried enactment of such a measure when passions were likely to run high. One reason for thinking in terms of repressive measures alongside the introduction of constitutional changes was the desire to soothe the apprehensions of the Anglo

⁵Act VI of 1907

⁶See notes in Home (Political) A Progs., Feb. 1910, 136, 141

⁷See notes by H. Stuart (Home Secretary), H. H. Rusley (Home Member) and Minto in Papers relating to Act XVII of 1910

⁸See note by Stuart, 14 Jan. 1910, Papers relating to Act I of 1910

Indians in India and diehards in Britain who had looked upon the reforms scheme as an unnecessary concession to agitating Indians.⁹ Moreover, though by giving concessions to the moderates, the officials had attempted to strengthen their position in India, still they had little faith in the capacity of the moderates to direct or control the Indian political scene. The Governor-General voiced this feeling in a letter to the Secretary of State:

One of the most important lessons learnt in recent times has been that the hold of the moderate leaders on public sentiment is slender and precarious, and that, when a wave of political unrest spreads over the country, their power of control cannot be relied upon.¹⁰

The Government of India, therefore, thought it wiser to have surer powers of dealing with any anti-Government activity than to rely on the restraining influence of the Moderate Party.

To the Government officials, the Press Act and the Prevention of the Seditious Meetings Act seemed complementary to each other. While the purpose of the former was to check the dissemination of seditious ideas through the agency of the press, that of the latter was to restrain the spread of 'revolutionary ideas, propagated by the 'dangerous method of direct preaching'. Finally, since it would have been premature to reopen the question of the removal of the Prevention of Seditious Meetings Act which was to expire only at the end of October 1910, the Press Bill was forced through the Legislature with three days notice, without circulating it for opinion or even consulting the provincial governments.¹¹ The murder of a police official in January 1910 within the precincts of the Calcutta High Court just before the first meeting of the reformed Legislature, facilitated the Government's task of convincing the non-official members of the need for repressive measures.

⁹See *Debates on Indian Affairs*, House of Lords, 1909, (London, 1909), pp. 21-39.

¹⁰Governor General to the Secretary of State, 10 Feb. 1910, Papers relating to Act X of 1911.

¹¹Act I of 1910, Introduced in the Imperial Legislative Council on 4 February and passed on 8 February 1910.

The Press Bill proposed that all new keepers of printing presses would have to deposit security of an amount ranging from Rs 500 to Rs 5,000 to be fixed in each case by the magistrate. This security could be forfeited, and even the printing press could be confiscated, in case they published any prohibited matter. This could be done by an order of the executive government. On the insistence of S P Sinha the first Indian Law Member, a provision was made for appeal to a special tribunal of High Court judges.¹² In the case of the already existing presses and newspapers, no such security was demanded until they published such material. The bill was introduced on 4 February and referred to the select Committee on the same day. The select Committee did not introduce any material changes except that it reduced the maximum amount of security that could be demanded to Rs 2000. Madan Mohan Malaviya refused to sign this report. Gokhale and Mudholkar signed the report subject to their joint minute of dissent in which they accepted the principle underlying the bill but objected to certain clauses.¹³

This Report was presented on 8 February and the Bill was pushed through the Legislature in the same sitting. Indian members gave notice of as many as fifty five amendments of which only two introducing minor changes were accepted. The non official members accused the Government of reviving some of the worst features of the Vernacular Press Act of 1878 and criticized the unseemingly haste shown by the Government. They pleaded in vain that the Act would levy a tax on knowledge and that their countrymen who took to journalism were too poor to afford the security demanded under its provisions.¹⁴ There was a lengthy debate on the motion to limit the bill to three years. At the end of the debate when Risley, the Home Member, went to the Governor General who was presiding, Gokhale thought that he had gone to ask whether the amendment could be

¹²See note by Sinha 18 Jan 1910 and Order in Council 25 Jan 1910 Leg A Progs, Mar 1910 4-12

¹³Report of the Select Committee, 7 Feb 1910 Papers relating to Act I of 1910

¹⁴ILCP, 8 Feb 1910

accepted.¹⁵ In the division on this motion sixteen Indian non-official Members voted for the motion. Only four Indian members, the three members from the Punjab and the Maharaja of Kurupam, voted against the motion.

In the course of the debate on the bill, the Indian newspapers were puzzled by the fact that Gokhale did not oppose it on principle and confined his attack to matters of detail.¹⁶ In view of Gokhale's forthright attitude on matters relating to liberty of the press, this was not unnatural. But there was a story behind Gokhale's stand which became known later. The bill as originally drafted was an executive measure and contained no provision for appeal to courts in any circumstance. S.P. Sinha, the first Indian Member of the Executive Council, was so much opposed to it that he was not willing to stand up in public in defence of this measure. He held that no executive government, however, benevolent and well intentioned it might be should be invested with the right to determine finally whether criticism of itself was objectionable or otherwise.¹⁷ He threatened to resign. Morley, Minto and Gokhale were not ready to see the Reform Scheme, for which they had worked incessantly for three years, wrecked by Sinha's resignation on a political issue. It would have been a disastrous blow to the policy of associating Indians with the work of administration and would have proved right those diehards who had criticized this policy. Finally Minto persuaded the members of the Executive Council to include a provision for judicial review,¹⁸ Sinha imposed upon Gokhale another condition. He asked Gokhale to support the Bill in the Legislature, Gokhale's pleading that being an elective representative his position was different proved ineffective.¹⁹ So keen was Gokhale to prevent Sinha from resigning that he

¹⁵Speech by Gokhale. *Ibid.*, 20 Mar. 1911,

¹⁶*Bangabandhu*, 16 Feb. 1910, *Bir Bharat*, 20 Feb. 1910, in Native Newspapers Report, Bengal, *The Mahratta*, 13. Feb. 1910. Even S.A. Imam was surprised to see Gokhale supporting the Press Bill and opposing Prevention of Seditious Meetings bill, ILCP, 20 Mar. 1911, p. 564.

¹⁷Note by Sinha, 18 Jan. 1910, Leg. A Progs., Mar. 1910, 4-12.

¹⁸Order in Council, 26 Jan. 1910, *Ibid.*

¹⁹See Gokhale Papers, F 520/3. Also Shastri, *Life of G.K. Gokhale* (Bangalore, 1937), pp. 84-87.

put his own reputation at stake and agreed to refrain from opposing the Bill though he retained full liberty to move amendments in the Select Committee and the Legislature

During the subsequent years the Indian members continued to press for the modification, if not the abolition, of the press Act. As early as March 1911 Gokhale complained that its provisions were enforced in "the hardest possible manner". During the subsequent period three resolutions were moved on the subject—by Banerjea in 1914, by Khaparde in 1918 and by Patel in 1920. Among the Indian members, as Vincent himself admitted, there was a widespread feeling that the Press Act was unfairly used for penalising certain papers and presses and that it was held in terror to stifle reasonable opposition. The officials on the other hand, believed that they could not afford to forego this "extremely effective and powerful weapon" in their armoury and that they had used it with "extreme moderation". Though none of these resolutions was accepted, campaign carried on by the Members made it clear that even the Moderates were opposed to the Press Act. On the recommendation of the Sapru Committee, the Act was repealed in 1922.

The Press Act was designed to control open sedition. But the Government had to face another difficulty which could not be solved by any act and this was that in the Indian languages press all their efforts were damned with faint praise. In order to combat this, the Government of Bengal decided to start a paper of its own in some Indian languages with Narendranath Sen as editor.²⁰ It set aside Rs 62,500 for subsidising its publication. This move was not welcomed in the Indian press and on a motion by Bhupendranath Basu, a debate was held on the issue.²¹ On behalf of the Government it was pointed out that while in the English press, all shades of opinion found expression, the Government was not represented in 'a fair manner in the vernacular press'.²² But the Indian members held that any such attempt would only increase bitterness because the Government paper would invite attacks from a watchful, a jealous, a critical and independent vernacular press. They looked upon

²⁰Natarajan, *History of the Press in India* (Bombay 1962) p. 118

²¹ILCP, 8 Mar. 1911, pp. 331-46

²²Speech by A. Earle (Secy., Home Deptt.), *Ibid.*, p. 344

the experiment as fraught with greater danger to the experimenter than explosive substances as a chemist's crucible.²³ But the resolution was rejected. Only nine Indian members voted for it.

The Prevention of Seditious Meetings Act, 1911

In January 1910 the Prevention of the Seditious Meetings Act of 1907 was brought into operation in the whole country as a precautionary measure after the murder at the Calcutta High Court. During the summer of 1910, the question of renewal of this Act came up for serious consideration. At this juncture officials themselves admitted that the political situation had doubtless improved and that there were no more attacks on officials. But rather than deciding to allow this Act to lapse, this improvement, in their opinion, confirmed the need to renew it. They attributed this improvement to the preventive and restraining effects of the existence of what they themselves described as 'repressive measures'.²⁴ The Government of Bengal went so far as to report that the spirit of hostility to the Raj was dead and that the restrictions placed on seditious writings and speeches had shaken off all predilections for teachings of that kind and that 'the student class of Calcutta' had diverted its attention 'to the more wholesome and normal interests of manly games and exercises'.²⁵ In fact the question that the members of the Executive Council considered was not whether or not the Prevention of Seditious Meetings Act should be done. They would have preferred to place it permanently on the Statute Book to avoid the necessity for its 'undesirable' discussion at comparatively short intervals.²⁶ But, finally, in view of the possibility of opposition from the Secretary of State to passing such a controversial measure at the Simla session and in order to prevent the possible 'two nights' acrimonious debates

²³*Ibid.*, Speech by Basu, pp. 331-4.

²⁴See notes by Minto, 13 June 1910 and by other members in Papers relating to Act XVII of 1910.

²⁵Reported by Hardinge in his speech in the ILC, ILCP, 21 Jan. 1911, p. 577.

²⁶Note by Minto, 13 June 1910, Papers relating to Act XVII of 1910.

in the House of Commons,²⁷ the Government of India decided to extend its duration by five months in the first instance. The reason given was that Minto, who was about to retire, did not want to bind his successor J L, Jenkins, the Home Member who introduced the bill to continue the Prevention of the Seditious Meetings Act at the Simla session of 1910 appealed to the Indian members to treat it as a matter merely of 'administrative convenience' which did not call for lengthy discussion. Still they debated the issue for four and a half hours and pleaded in vain that at a time when on Government's own admission the political situation had improved, it should allow the bill to lapse and watch its effect. Their main purpose in attending the Simla session was to register their opposition to the extension of the act and thus to discourage the Government from making it permanent. To Minto's argument that he had left the matter to his successor, Gokhale pointed out that the new Viceroy, because of his being new, was more likely to succumb to the pressure of provincial governments and his colleagues.

In view of the opposition to continuing the act in 1910 and of the fact that the whole brunt for continuing the Act had been thrown upon his shoulders, Hardinge thought a good deal as to whether the Act should be allowed to lapse or be renewed.²⁸ All the members of the Executive Council except Sir Syed Ali Imam, who succeeded Lord Sinha as Law Member, expressed themselves in favour of its renewal.²⁹ Hardinge tried to soften the opposition by introducing some modifications. For this purpose Gokhale and some other members were asked to give suggestions.³⁰ The term 'public meeting' was more precisely defined. The law was confined entirely to meetings for the furtherance of discussion of any subject likely to cause disturbance or public excitement or for the exhibition or distribution of any written or printed matter relating to such subject. The Governor General asked the Secretary of State for permission

²⁷Note by G F Wilson 25 May 1910, *Ibid*

²⁸Hardinge, *My Indian Years* (London, 1948), p 20

²⁹Hardinge to Morley, 16 Mar 1911, Morley Papers. Also notes in Papers relating to Act X of 1911

³⁰Hardinge to Crewe, 2 Feb 1911, Hardinge Papers (117)

to withdraw the application of the Act from the whole of India.³¹ The reasons were thus stated:

‘The Indians are a very impressionable race, and I believe that putting them on their trust and taking them into one’s confidence would have a very good effect, and a declaration in this sense will largely remove the general hostility that is now being felt, chiefly on sentimental grounds, to the Seditious Meetings Act, at present in force.³¹ The Act, was consequently withdrawn from the whole of India and it was stated that before bringing it into operation in any ‘area, the provincial government concerned would have to seek the permission of the Government of India.³²

Hardinge was in favour of introducing the Bill as it stood and then accepting amendments in the Legislative Council so that the Indian members could get credit and the Government might appear to have made some concessions to opinion in the Legislature³³. But the Home Member argued that only a few and unimportant amendments could be accepted in the Legislature without reducing the Act to nullity.³⁴ Therefore, it was decided to introduce the bill in the amended form. This attempt to tone down the objectionable features of the bill however failed to earn the gratitude of Indian members who continued to believe that no justification existed for re-enacting this legislation.³⁵

With great moderation, humility and dignity which were customary to the Indian members, they raised two types of questions in the Legislature: Was there any necessity for the measure? Was the bill under consideration the best remedy? They argued that before proposing such a measure the Government should take the causes of anti-Government activity into

³¹Hardinge to Crewe, 25 Jan. 1911, *Ibid.*

³²Speech by Jenkins (Home Member), ILCP 16 Mar. 1911, pp. 438-42.

³³Hardinge to Crewe, 2 Feb. 1911, Hardinge Papers (117).

³⁴Jenkins to DuBoulay, 2 Feb. 1911, *Ibid.*, (81).

³⁵See Minute of Dissent to the Report of the Select Committee signed jointly by all the four Indian members (Gokhale, Basu, Haque and Mudholkar), 18 Mar. 1911.

consideration. They pointed out that the situation had become grave during 1905-7 because the acts and utterances of the Government showed a disregard and distrust of people's wishes. This, they said, resulted in the loss of faith in the constitutional method. They pleaded that the Government should try to win over the people by adopting a benevolent and progressive policy rather than adding to their grievances by passing repressive legislation. They also argued that by closing *venues of public expression of dissatisfaction, the act would only encourage secret societies and merely increase the type of activity which it aimed at controlling*³⁶. They also gave effective replies to arguments advanced on behalf of the Government. The Home Member had argued that all the provincial governments were in favour of such a measure. To this Gokhale replied that it was natural for the provincial government to want to retain the powers which the Act of 1907 conferred on them. But this did not prove that the condition of the country was such that the provincial governments should have such powers. Further, the Home Member had argued that the Bill was merely a preventive measure and that the Government did not want it to be applied with any excessive zeal. To this Malaviya replied that once the bill became an Act, the Government officers became armed not just with the spirit of the law but also with the letter of the law. He also complained of the working of the Press Act which, he said, was being applied in the hardest manner³⁷. Members also made moral appeals to the British sense of mission, their reputation and their ideals of justice. Mazharul Haque said 'It is the British nation which has initiated us into [these] ideas... They are now ingrained in our natures and due regard should be paid to them in all legislation'³⁸.

But all these appeals and arguments could not make the officials change their stand. Even from within the precincts of the Executive Council, S P Sinha had already implored his colleagues not to go ahead with this legislation. He wrote, 'Can we say that the present circumstances show it to be

³⁶ILCP, 20 Mar, 1911, speeches by Gokhale, Malaviya, Sinha, Haque and Basu

³⁷*Ibid*, speeches by Gokhale and Malaviya

³⁸See speech by Mazharul Haque, *Ibid*, p. 541

necessary? The country generally is quiet, the recent demonstrations for His Majesty have made it clear that the vast majority of the people are loyal to the British Government. What then do we want the people to do to show that there is no necessity for further repressive measures?³⁹ But the, British administrators, convinced that the existence of the Raj depended on their power to restrain the spread of nationalist ideas which the Indian leaders sought to diffuse, remained unimpressed by these arguments.

When the Legislature was divided on the motion to restrict the operation of the Act to three years, fourteen non-official Members voted for the motion including all the representatives of Muslim electorates—the Prince of Arcot, Jinnah, Haque and Huda [the fifth representative, the Raja of Mahmudabad was not present].⁴⁰ It is true that the motion that the bill, as amended be passed, was not challenged. Hardinge patted himself on the back for having got through the debate without a division.⁴¹ But the Governor-General was merely deluding himself because after the Government had ignored the most ardent appeals to restrict it to three years, there was no point in opposing the final motion. It may be added here that its provisions were rarely brought into operation.⁴²

The Defence of India Act, 1915

The Indian Defence (Criminal Law Amendment) Act was passed during the War.⁴³ But much before the war, the Government of Bengal had expressed grave concern over what it described as the increasing activity of revolutionary organizations which had become 'a duel between the organisation and the police'.⁴⁴ In April 1913, R. H. Craddock, the Home Member, put

³⁹Note by S.P. Sinha, 29 May 1910, Papers relating to Act XVII of 1910.

⁴⁰ILCP, 20 Mar. 1911.

⁴¹Hardinge, *My Indian Years*, p. 20.

⁴²Sedition Committee Report, 1918, para 36.

⁴³Act IV of 1915.

⁴⁴The Government of Bengal to the Government of India, 6 Feb. 1914, Home (Political) A Progs., Nov. 1914, 39-48.

forward the proposal to issue an ordinance ⁴⁵ But the Governor-General did not consider the situation to be so bad 'as to demand this unusually extreme measure' ⁴⁶ The Secretary of State also deprecated this course and suggested that a surveillance law might be passed in the Bengal Legislative Council ⁴⁷ But the Government of India was reluctant to accept this course because, in view of non official majority in the Bengal Legislative Council, it would have been impossible to pilot such a *measure without emasculating it of all the provisions which the Government thought necessary* ⁴⁸ At this stage Britain joined the war on 4 August 1914 and pushed the Defence of the Realm Act through the British Parliament in a single day This provided the way out of the dilemma R H Craddock noted with *great relief*

We must disabuse the Secretary of State and the Cabinet at home of their apathy towards Indian Anarchy,... Surely when the Government of India have denuded the country of their best troops in order to give every assistance in their power to the British Government and the Empire, this is a powerful argument for the British Government in its turn to refrain from hampering our action, and to allow us to use the law that we have in order to ensure the internal security of India ⁴⁹

In December 1914 the Government of Punjab also asked the Government of India to issue an ordinance arming them with special powers to deal with the situation arising from the arrival of certain Indians from America ⁵⁰ During early 1915 when the question was considered, the Legislative Council was already in session and, as Sir Ali Imam pointed out, it would have been unwise to promulgate an ordinance giving powers to

⁴⁵Note by Craddock, 27 Apr 1913, *Ibid*

⁴⁶Note by Hardinge, 20 May 1913, *Ibid*

⁴⁷S S to G G in C, 11 Sep 1914, *Ibid*

⁴⁸Note by Craddock, 13 Oct 1914, *Ibid*

⁴⁹*Ibid*

⁵⁰Govt of Punjab to the Government of India, 19 Dec 1914, Log A Progs, Oct 1915, 1-4

the executive.⁵¹ Moreover an ordinance could be in force only for six months and it would have been difficult to get the permission of the Secretary of State for introducing legislation of a repressive nature at Simla.⁵² The Government, therefore, decided to introduce a bill on the lines of the British Defence of the Realm Act. Finally 'a far more drastic "Dora" than her English sister' was introduced in the Legislature.⁵³ It proposed to give wide rule-making powers to the executive with a view 'to securing public safety and defence of the country,' and also provided for the creation of special tribunals for the quicker trial of certain classes of cases in specially 'disturbed' areas. The officials were keen to pass the bill 'as soon as possible' because the non-official Members had come to know that such legislation was under consideration and every day would have given them more time to concert opposition.⁵⁴ A copy of the bill was given to them three days in advance to reassure them of Government's good will.

The bill was introduced on 18 March and passed in a single sitting. It was a severe trial for the elected members. They had watched the growing anti-Government activities with concern. At the same time they were reluctant to give such wide powers to the executive which they feared would be indiscriminately used. They did not give their silent vote but moved thirty-three amendments of which thirteen were withdrawn and eighteen were crushed by using the official majority.⁵⁵ Only two comparatively unimportant amendments moved by Dadabhoi were accepted 'to save the faces' of Indian critics.⁵⁶ The act was immediately applied to Punjab and was later to be extended to other parts as and when the Government thought it necessary.

As in the case of the Press Act, the Indian non-official members expressed their dissatisfaction with the manner in which the Defence of India Act was used. In February 1917,

⁵¹Note by S.A. Imam, 1 Mar. 1915, *Ibid.*

⁵²Note by Vincent, 11 Mar. 1915, *Ibid.*

⁵³Hardinge, *My Indian Years*, p. 116.

⁵⁴Hardinge to Craddock, 15, Mar. 1915, Hardinge Papers, v. 89.

⁵⁵ILCP, 18 Mar. 1915, pp. 495-514.

⁵⁶Vincent to Holderness, Under Sec. of State for India, 23 Mar. 1915, Hardinge Papers, v. 121. Also Hardinge, *op. cit.*, p. 116.

Dadabhoy moved two resolutions on this subject—one recommending the appointment of a mixed committee to go into the question of Indian anarchism and the other recommending that rules framed under the Defence of India Act should be amended.⁵⁷ Next year, on 19 March 1918, Banerjea moved one more resolution asking for the appointment of committees in each province, with adequate Indian element thereon, to inquire into and report on all cases of internments under Regulation III of 1818 and matters relating to prisoners. There was heated debate on Dadabhoy's second resolution.⁵⁸ The members condemned anti government activities in most unambiguous terms. They argued that the officials had applied the provisions of the Defence of India Act indiscriminately and that even peaceful and loyal citizens were filled with alarm and consternation.⁵⁹ Have you not been guilty of gravest mistakes in the administration of the Press Act?' asked Banerjea.⁶⁰ He was supported by almost all the non official Members, including representatives of the *zamindars*. Appealing to the Government to accept Banerjea's resolution Maharaja Manindra Chandra Nandi of Casimbazar, for example, said

The acceptance of the resolution would relieve in a large measure the tension in the public mind in connection with the subject, and effectually prevent the Government from being impugned, maligned and discredited before the public eye in season and out of season.⁶¹

Replying to these charges, the Government officials denied that the Act had been administered with any discrimination and argued that the members of the Government had not lost their British instinct and that the Indian members had 'no monopoly of objection to the curtailment of the liberty of anyone in any way'. These arguments lacked any conviction and were unlikely

⁵⁷ILCP, 8 and 21 Feb 1917

⁵⁸*Ibid*, 19 Mar 1918

⁵⁹See speeches by Dadabhoy and Basu, *Ibid*, 21 Feb 1917 and by Banerjea on 19 Mar 1918

⁶⁰ILCP, p 1110

⁶¹*Ibid*, p 1122

to assure either the members inside the Legislature or those who watched the proceedings from outside. While Dadabhoy's resolutions were rejected, in the case of Banerjea's resolution Vincent, the Home Member, accepted the proposal to appoint such committees but he refused to include any Indian in them.⁶² This proposal was generally welcomed. Banerjea held that the appointment of Committee and its work had a mollifying effect of public opinion.⁶³

The Rowlatt Bills

The two bills which came in for the bitterest, and prolonged opposition both inside the Legislature and outside were the Indian Criminal Law (Emergency Powers) Bill⁶⁴ and the Indian Criminal Law (Amendment) Bill,⁶⁵ known popularly as the Rowlatt Bills. After prolonged debate the former was forced through the Legislative Council in the teeth of unanimous opposition from all the Indian Members (including the one Burmese Member) representing as they did diverse interests and creeds and was followed by unprecedented agitation. The second one, described even in Government files as the 'Small Rowlatt Bill' was finally abandoned.

In 1917, as on earlier occasions, the Government officials believed that there was 'a widespread conspiracy extending over India and beyond the borders which was aimed at the overthrow of the British Government'.⁶⁶ But they did not make this information public on the ground that it would have endangered the lives of their informants. In such a situation they found the Defence of India Act of 1915 a very useful weapon. But it was a War measure and was to expire after six months of the conclusion of the peace treaty. The Government wanted those powers in perpetuity. As early as 1916 the Government of India had started working out tentative

⁶²*Ibid.*, p. 1126.

⁶³S.N. Banerjea, *A Nation in Making*, pp. 277-8.

⁶⁴Bill No. II of 1919.

⁶⁵Bill No. I of 1919. Its name was changed to The Anarchical and Revolutionary Crimes Bill at the Select Committee stage.

⁶⁶See speech by Vincent, ILCP., 23 Sep. 1918, p. 323.

proposals. But it was clear that such proposals would be received with expressions of disapprobation by Indians. They, therefore, decided to cloth the proposals in a more acceptable garb. This is the reason why the Sedition Committee presided over by Justice Rowlatt was appointed.⁶⁷ This is clear from the following letter written by S R Hignell, Deputy Secretary in the Home Department in October 1917:

In view of the fact, however, that six months after the war is over the Defence of India Act will cease to be operative and the use of the regulation may be called in question, we have been for some time considering the problem. Proposals have not yet been formulated in detail, but we recognize that they will be exposed to violent opposition and criticism from those who will not accept the Government of India's statements of the extent of the conspiracies and the need for special powers to deal with them. To meet this difficulty we have now obtained the approval of the Secretary of State to the appointment of a commission.⁶⁸

A Committee was, therefore, appointed with Sir Sidney Rowlatt, a judge of the High Court of Justice in Britain. The estimated expenditure on the Committee was Rs 70,000.⁶⁹ Its recommendations were later used as the sole justification for introducing the two bills which became known as Rowlatt Bills. The Committee included four more members—two Britishers (Sir Basil Scott, Chief Justice of Bombay and Sir Verney Lovett, Member of the Board of Revenue, U P.) and two Indians (Dewan Bahadur C V Kumaraswamy Shastri, Judge of the High Court of Madras and Mr Prohash Chandra Mitter, Vakil of the High Court, Calcutta). This Commission was asked (1) to investigate and report on the nature and extent of the criminal conspiracies connected with the revolutionary movement in India and (2) to examine and consider the difficulties that had arisen in dealing

⁶⁷See notes in Home (Political) A Progs., May 1918, 472-503.

⁶⁸Hignell to Davidson, 20 Oct 1917, No 2564, *Ibid*.

⁶⁹See Home (Political) A Progs., May 1918, 472-503. This was roughly equal to total expenditure on University education of women in British India at that time.

with such conspiracies and to advise if any legislation was necessary to enable the Government to deal effectively with them.⁷⁰

This Committee submitted its report on 15 April 1918. It met in camera and the procedure adopted by it was in no case above suspicion.⁷¹ On the question of nature of criminal conspiracies it relied on the facts and figures submitted by the Government of India. It concentrated on the nature, and not on the extent, of this problem though it conceded that the number of conspirators was small and that in Bihar, Orissa, the United Provinces, the Central Provinces and Madras, the revolutionary movement had not taken root.⁷² As regards the need for legislation, the Committee had before it the scheme of special legislation prepared by the Government of India to take the place of the Defence of India Act. The Committee merely endorsed this. It showed only a token interest in positive and administrative remedies.

The Government of India lost no time in framing the two Bills. The more important of the two bills which ultimately became an act—The Indian Criminal Law (Emergency Powers) Bill—was divided into five parts. The first part provided for the trial of the accused in camera by a special court consisting of three High Court judges expeditiously, without commitment and with no right of appeal. Clause 17 in this part allowed the statements of persons not examined as witnesses to be used in evidence in certain circumstances. This was not permissible under the Indian Evidence Act. Part II dealt with preventive measures. It could be brought into operation if the Governor-General was satisfied that movements, which were likely to lead to offences against the state, existed. In such cases the provincial government could either order the person so confined to furnish security, to notify his residence, to reside in a particular area, to abstain from any act specified or to report himself to police. Part III was even more drastic empowering the provincial governments to arrest or confine any person 'to

⁷⁰*Sedition Committee Report*, 1918.

⁷¹Peter Robb, *The Government of India and Reform: Policies towards politics and the Constitution* (OUP, 1976), p. 150.

⁷²*Sedition Committee Report*, 1918, para 166.

such place and under such conditions and restrictions as it may specify' where there was 'a reasonable ground' for believing that activities of such a person would endanger public safety. Though provision was made for an investigating authority of three persons to examine the material upon which orders against the person dealt with under the act were framed, the person was not allowed to engage a lawyer to advise him. Part IV applied the provisions of part three automatically to persons confined under the Defence of India Act. Part V was mainly ancillary.

As in the case of other measures dealing with what the non official members described as 'political activities' and 'revolutionary movement' or what the Government officials described as 'crimes of the most dastardly character',⁷³ the Government of India proceeded with great urgency. The bills were published in the Gazette of India on 16 January 1919. As a result, the motion that the bills be introduced never came up before the Legislature. The Criminal Law (Emergency Powers) Bill was never circulated for eliciting public opinion thereon. During the debates on the bills the members generally sat overtime. On 14 March 1929 the Legislative Council continued to sit until 120 A.M. (the next day). The question naturally arises. Why was the Government in such a hurry?

The Government officials believed that the publication of the Seditious Committee Report had a good effect and had made people more amenable to accepting its recommendations. They apparently wanted to act before this good effect evaporated. Secondly, the armistice had already been signed in November 1918 and the peace treaty could be concluded at any moment. The Defence of India Act was to expire within six months of the signing of peace treaty. In such a situation the officials held that any delay could be fatal. Vincent told the Legislative Councillors 'I submit the consequences would be disastrous. All the ground that we have gained now in the suppression of this anarchical movement will be lost. Our police efficiency will be destroyed'.⁷⁴ It has been argued that the Government

⁷³On this point see Vincent's speech IPCP 23 Sep 1918, pp 346-7.

⁷⁴Speech by Vincent, 7 Feb 1919, *ibid* pp 545-51.

was unaware of the depth of feeling on this subject. The official record of the happenings of 1919 mentions: 'Being entirely innocent of any designs upon the aspirations of educated Indians, officials did not realize the strength of feeling of Indians'.⁷⁵ But there were clear indications of the intensity of feeling against the proposed legislation.

In September 1918 a resolution moved by Khaparde, recommending that the report of the Rowlatt Committee be kept in abeyance and that a thorough inquiry might be undertaken in the working of the Central Intelligence Department and the Central Investigation Department, was discussed. It is true that he was not supported by other Indian members. The reason was not that they approved of the recommendations of the Sedition Committee but that they did not want to spoil the chances of the acceptance of the reform proposals embodied in the Government of India Bill, which was before the House of Lords. As Banerjea put it: 'In the mind of Lord Sydenham and others of his way of thinking the reform proposals and this report are linked together. The reform proposals are to Lord Sydenham and his party Egall and Wormwood, they are poison, and this report they regard as the antidote and I cannot help regretting that Khaparde brought this resolution because every one of us is keen to see that reform proposals are carried through the Parliament'.⁷⁶ Another reason was that the Indian had believed that in view of general expectations of Indians and the liberal policy adopted by the Government, recommendations of this Committee would not be acted upon. Some of them also voiced their opposition to the proposals in most unambiguous terms. Jinnah told the Council, '...no civilized country, I make bold to say in this Council, can tolerate, much less sanction, measures of this character which are called preventive measures.'⁷⁷ During the debate it had thus become amply clear that any attempt to pass legislation on the recommendations of this Committee would be opposed.

Outside the Legislature the proposal had already stirred up a tremendous and unprecedented agitation. The Indian National

⁷⁵*India in 1919*, pp. 26-7.

⁷⁶ILCP., speech by Banerjea, 23 Sep. 1918, pp. 332-3.

⁷⁷*Ibid.*, p. 342.

Congress had declared its opposition to the continuance of repressive executive powers and Gandhi, who had been awarded Kaiser-i-Hind medal for his services during the War, had threatened to invoke passive resistance on a national scale for the first time⁷³

The main bill—Indian Criminal Law (Emergency Powers) Bill—was introduced on 6 February 1919. On the same day, Vincent the Home Member, moved that it be referred to a Select Committee. To this motion Patel moved an amendment that the consideration of the bill be deferred till six months had elapsed after the expiry of the term of the Legislature. During the debate on this motion the main lines of Government's stand that it took publicly and of that of 'the opposition' emerged clearly.

On the official side mainly two types of arguments were advanced, one based on need for repressive powers and the second on the plea that the powers would be used in special cases only. While admitting frankly that it was a repressive measure, Vincent argued that the machinery of law and order which existed before the war was not fit to cope with the 'lawlessness of the particular type' and that 'the coming of the war with its emergency legislation really saved the peace of India', that it would be 'unsafe' to revert to the earlier situation and that it could only come into operation in certain circumstances of a special character⁷⁴.

The non official members remained altogether unimpressed by these arguments. The debate on this motion continued for eight hours extending over two days during which as many as twenty non official members spoke. They denied that the situation in the country was grave enough to warrant such a measure. Crime had decreased and people were looking forward to a 'great and momentous reform scheme' which was likely to improve the situation further. They further said that even if it was admitted that the situation was grave, the bill under consideration was the wrong remedy for the disease. In every country, Patel said, 'revolutionary crime' was really the outcome

⁷³R. Kumar, ed., *Essays on Gandhian Politics: The Rowlatt Satyagraha of 1919* (Oxford, 1971), p. 3.

⁷⁴See speeches by Vincent, ILCP, 6 Feb. 1919 and 12 Mar. 1919.

of political and administrative stagnation and lack of peaceful avenues to get redress for grievances. Therefore, the Government should make an effort to introduce changes in these directions.⁸⁰ They also objected to the provisions of the bill which, as Banerjea said, constituted 'a peril to the sacred rights of personal liberty which Englishmen value so much...which you, our masters in the art of self-government have taught the people of India to prize.'⁸¹ In his extremely clear and cogent speech Jinnah also pointed out that its provisions were against the fundamental principles of law and justice namely that no man should lose his liberty or be deprived of his liberty without a judicial trial in accordance with the accepted rules of evidence and procedure.⁸² They argued, begged, pleaded, cajoled, and warned in most unambiguous terms that forcing these measures through the Legislature would put an end to all constitutional agitation in the country, that tremendous and unprecedented agitation would follow, that reactionaries in Britain who opposed the reform scheme would be further confirmed in their opinion and that the responsibility for all this would lie with the Government. Even V.S. Srinivasa Shastri who was known for his sober and coolheaded approach, warned the Government that if the measure was forced through the Legislature, it might not be possible for him to abstain from joining the agitation against the measure. In short, they said, as the Raja of Mahmudabad put it, that the bill was 'inopportune, unsound, uncalled for and un-British.'

The Legislature was divided thrice on 7 February and, for the first time, in all the three divisions all the Indian non-official members including Maung Bah Too, the non-official representative from Burma voted solidly together. The motion to refer the bill to the Select Committee was forced through the Legislature by the official majority and the bill was referred to a select committee consisting of Srinivasa Shastri, Banerjea, Shafi, Patel, Khaparde, Malaviya and Nawab Ali Chowdhri.

The Indian members had opposed the introduction of the bill in most unambiguous terms. The question arises:

⁸⁰*Ibid.*, 6 Feb. 1919, p. 454.

⁸¹*Ibid.*, p. 457.

⁸²*Ibid.*, p. 463.

Why did they agree to serve on the Select Committee? Their object seems to have been to convince the Government of the desirability of dropping the bill or at least to introduce changes of some consequence. Patel, for example, later explained that he was confident that in deference to the unanimous Indian opposition to the bill, both inside and outside the Legislature, and in view of the fact that the passage of the bill would throw the country into a vortex of agitation unknown in the history of British India, the Select Committee would see its way to so amend the bill as to make it less dangerous, less obnoxious and perhaps to some extent less objectionable. In this hope he confessed he was grievously disappointed.⁸³ The opposition of the moderate members—Shastri, Shafi and Banerjea—softened after the Bill was made temporary. They seemed to relent after more concessions were made at the Select Committee stage. The following description seems to give an apt picture of the atmosphere in the Select Committee given by V S S Shastri to Vaman Rao:

The amount of abuse we get from the press is prodigious .. Panditji [Malaviya] is hopelessly in league with Patel and Khaparde. In Select Committee he votes for all their wild proposals. Suren Babu [Banerjea] and I vote together often with them but as often the other way.⁸⁴

Within a week of the introduction of the measure the officials seem to have perceived that they had undertaken a wrong piece of legislation.⁸⁵ Still they did not think of withdrawing. The agitation and the consequent anti Government feeling that developed increased the need for the proposed legislative measure. Moreover, withdrawal would have amounted to surrender to political agitation. Lloyd George, the British Prime Minister wrote a little later:

But now that we have embarked upon them, hesitation or change of policy would be fatal and would so encourage

⁸³*Tribune*, 6 Mar. 1919

⁸⁴Shastri to Vaman Rao, 22 Feb. 1919, Shastri Papers (294)

⁸⁵*Leg. A. Progs.*, Feb. 1920, 1-21

and strengthen the extremists as to put the political game entirely in their hands in the future.⁸⁶

Instead, the officials decided to 'facilitate matters' by some conciliatory gestures. They believed that the hostility of Indians to the bills was based on misapprehensions and wrong information which resulted mainly from the propaganda of the extremists. In order to bridge the gap between themselves and 'the people', they distributed thousands of copies of translations of the bill, pamphlets and posters to explain their own point of view. In the Legislature, the means adopted were to remind the moderate leaders of their duty towards their government and the people, to provide them opportunities of 'letting off steam' and to introduce some changes in the bill during its passage through the Legislature. Verny Lovett, an official member of the Legislature and a member of the Sedition Committee, exhorted the non-official members to lead the people rather than be led by them. It is significant that Khaparde, Patel and Malaviya were included in the Select Committee though they belonged to what was described as 'the extremist camp'. Home Member also announced in the Legislature that he was prepared to make changes in the bill, however, 'without impairing the efficiency of the machinery which is necessary to enable the Government to deal effectively with this anarchical movement.'⁸⁸ The officials concluded that a strong objection to the bill was that it was permanent. They decided to limit the operation of the bill to three years and this was announced in the Legislature on 11 February 1919.

At the Select Committee stage, some changes were introduced with the object of allaying the fears that the provisions of the bill would be used to suppress legitimate political activities. Its application was restricted to offences connected with anarchical and revolutionary movement. The title of the bill was also changed from 'Criminal Law (Emergency Powers) Bill' to 'The Anarchical and Revolutionary Crimes Bill'. Some changes were also introduced in matters of detail. To the

⁸⁶Lloyd George to Montagu, 6 Apl. 1919, Montagu Papers (24).

⁸⁷ILCP, 7 Feb. 1919, pp. 505-7.

⁸⁸*Ibid.*, p. 550.

preamble the words 'for the purpose of dealing with anarchical and revolutionary movement's were added. In the clause defining an offence the words 'prejudicial to public safety' were changed to 'connected with any anarchical and revolutionary movement'. The Government of India at that time held that the bill as amended by the select Committee was a much more acceptable and milder measure.⁸⁹ Indian opinion did not think so. None of the members of the select Committee accepted its report without a dissent. Even Nawab Ali Chowdhri, a 'safe' and 'loyalist' member submitted a dissenting note. Banerjea, Shafi and Shastri welcomed the changes but expressed disapproval of the policy and principles on which it was based and reserved their right to oppose the bill in the Legislature. The other three members Patel, Khaparde and Malaviya—tried to move that the bill be dropped. This was ruled out of order. They refused to sign the report 'A measure which is in fact and in substance dangerous and obnoxious does not cease to be so because it is limited in duration', said Patel.⁹⁰

It is interesting that some members of the Select Committee signed the report and at the same time refused to accept it. This was the outcome of the general ambivalence that characterized their attitude at a time when Gandhi had already given a call to the people for *satyagraha*.⁹¹ The moderate leaders doubted the efficacy of this method and at the same time were convinced of the injustice and inopportunity of passing a repressive measure. The Indian members of the Legislative Council were also advised to walk out of the Legislature thus obliging the Government either to drop the bill or to pass it at a session at which non officials were not present.⁹² Patel urged Shastri to organize all the non official members not to attend the Council on the 12 and 13 March when the report of the Select Committee was to be discussed. But Shastri flatly refused to countenance the idea.⁹³ Differences in the attitude of the mem-

⁸⁹ *India in 1919*, pp. 30-1.

⁹⁰ ILCP, 18 Mar 1919, p. 1181.

⁹¹ Open letter to the 'People of India', 26 Feb 1919, *The Collected Works of Mahatma Gandhi* (Ahmedabad, 1963), v. XV, pp. 102-2.

⁹² *The Mahratta*, 23 Mar 1919.

⁹³ Shastri to Sapru, 5 Mar 1919, Shastri Papers, No. 306.

bers did not allow any such plan to materialize. Khaparde had noted in his diary even before the Select Committee was appointed: 'There is a movement of stiffening opposition to Bills but it does not look likely that members will combine so far as to walk out.'⁹⁴

Though the members did not walk out, they unanimously opposed various clauses of the bills and showed remarkable perseverance and patience both in participating in the debate and in opposing. They knew that the Government would not relent but still they persisted undeterred and unabated. They wanted to register their strongest protest and to show that the measure had been forced through the Legislature in total disregard of the feelings of even those Indians who had been most outspoken in proclaiming their loyalty to the Raj and those whom the Government themselves recognized as sober and responsible critics. As Shastri put it, 'Whatever this bill does, it does not yet forbid a man to cry when he is hurt,'⁹⁵ and they continued to cry. The report of the Select Committee was considered on the 13 and 14 March. The bill was discussed clause by clause. To his bill of 42 clauses, notice of as many as 185 amendments were given of which Patel gave notice of 52, Chanda of 50, Sharma of 28 and Khaparde of 25.⁹⁶ Of these only a few very unimportant ones were accepted, the rest were crushed with, as a member put it, 'the official steam roller'. In the whole course of the passage of the Revolutionary and Anarchical Crimes Bill, the Legislature was divided as many as sixteen times, Indian non-official Members always voting solidly together except that in the case of some unimportant divisions, Wacha voted twice with officials and Shastri, Majithia and Nandi did this once each.⁹⁷ Even on the motion that the bill, as amended, be passed, there was lengthy debate.

The Indian members were patted on the back for their persistence. *The Mahratta* wrote: 'All honour to the representatives of the people who fought valiantly and thus earned the

⁹⁴Khaparde Diaries, 6 Feb. 1919.

⁹⁵Speech by Shastri, ILCP., 18 Mar. 1919, p. 1188.

⁹⁶See Leg. A Progs., Apl. 1919, 58-77.

⁹⁷ILCP, 13 and 14 Mar. 1919, pp. 941-1155.

lasting gratitude of the nation"⁹⁸ It is worth quoting an extract from *The Tribune* in this context

We do not know which to admire most, the devotion and the sense of duty which chained them to their seats during the prolonged discussion which they knew was largely futile the earnestness with which they made proposals after proposals knowing fully well that not one of them was going to be accepted, or the warmth, the enthusiasm and the seriousness with which they made eloquently well reasoned and persuasive speeches on every important amendment that was moved by one of them knowing absolutely certainly that not one of the hostile votes was to be won over by them"⁹⁹

It should also be pointed out that though some of the stages in the passing of bill were skipped and that it was hurried through the Legislature, the officials showed remarkable patience and listened to what appeared to them to be 'non official bores' even after it became clear that there could be no compromise. Almost all the meetings continued till after six o'clock and it was never more incumbent upon all the officials members to attend in full force as in the course of this bill. The non official members showed unprecedented and exemplary solidarity and the officials could not take the risk of a motion being carried against them.

After the bill was passed appeals were made to the Governor General not to give his assent to the bill as it had been passed in the face of united opposition in the country¹⁰⁰ But the Government of India did not give in. The reason may best be stated in the words of the Law Member 'I believe that His Excellency has throughout accepted the necessity of this Act being placed upon the Statute Book, and it has from the first been recognized that we could only pass it in the teeth of the Indian Members'¹⁰¹

⁹⁸ *The Mahratta*, 16 Mar 1919

⁹⁹ *The Tribune*, 18 Mar 1919

¹⁰⁰ See Leg A Progs, Apl 1919, 58-77

¹⁰¹ Note by G R Lowndes, 20 Mar 1919, Leg A Progs, Apl 1919,

After the bill was assented to, some Members of the Legislature retaliated by resigning from their membership. Jinnah, a representative of the Muslims of Bombay, was the first to resign. His resignation letter was worded in very strong terms. He wrote:

The passing of the Rowlatt Bill...has clearly demonstrated the constitution of the Imperial Legislative Council which is a legislature but in name—a machine propelled by a foreign executive. I feel that under the prevailing conditions I can be of no use to my people, not consistently with one's self-respect is co-operation possible with a government that shows such utter disregard for the opinion of the representatives of the people.... A Government that passes or sanctions such a law in time of peace forfeits its claim to be called a civilised Government.¹⁰²

Malaviya vacillated for about ten days about his resignation. But, after Jinnah resigned, he too resigned.¹⁰³ Shukul resigned soon after. Sharma also thought of resigning, but was persuaded by the Viceroy not to do so.¹⁰⁴

On 6 February 1919 when the first debate on this bill was held Jinnah had warned, '...You will create in the country from one end to the other a discontent and agitation the like of which you have not witnessed.'¹⁰⁵ That his prophesy was speedily fulfilled was admitted even by the Deputy Director of the Intelligence Bureau while reporting on the Non-Cooperation and Khilafat movements.¹⁰⁶ It became a symbol of Government's determination to cling to power at any cost. The feeling that Indians were to be thwarted in their legitimate aspirations became stronger then ever. Not unnaturally it became an

¹⁰²Jinnah's letter of Resignation, 29 Mar. 1919, Montagu Papers (22).

¹⁰³For the attitude of Malaviya, see Sastri to Vaze, 20 Mar. 1919, Sastri Papers, Nos. 312 and 317. For his letter of Resignation, 6 Apl. 1919, *Ibid*.

¹⁰⁴Shastri to Vaze, 20 Mar. 1919, Shastri Papers, No. 312.

¹⁰⁵Shpeech by Jinnah, ILC Progs., 6 Feb. 1919, p. 463.

¹⁰⁶P.C. Bamford, *Histories of the Non-Cooperation and Khilafat Movement* (Delhi, 1974 reprint), p. 8.

occasion for serious agitation in Punjab and elsewhere. It is a sad commentary that the bill forced through the Legislature in this way was never applied.

In the meantime, on 10 February, the Indian Criminal Law (Amendment) Bill was referred to a select committee.¹⁰⁷ In this case too, the three extremist Members absented themselves from the select committee meetings and refused to sign the report while the other four submitted their minutes of dissent. The Committee, however, recommended republication of the bill.¹⁰⁸ In December 1919, the Government decided to drop the bill ostensibly because the provincial governments were not unanimous and because it was not of such vital importance 'that it would be expedient to face in the Council the violent opposition it is sure to evoke'.¹⁰⁹ The underlying reason, however, was that after the bitterness generated by the other Rowlatt bill, it did not seem worthwhile to force it through the Legislature. Finally, the bill was dropped by not setting down any motion.

Sequel to the Rowlatt Act

Gandhi had threatened to start the 'Satyagraha' if the Government persisted in passing the Rowlatt Bill. When this Bill was forced through the Legislature, Gandhi made an all India appeal to observe *hartal*.¹¹⁰ on 30 March 1919. Later the date was changed to sixth April. People responded to his call and the *hartal* was a great success. But in some areas there were clashes between the people and the police. At Delhi the police fired upon the crowd, killing some and wounding a large number. There were most widespread demonstrations in Punjab which became memorable because of the highhandedness with which the people were treated. In parts of Punjab the authorities indulged in a virtual reign of terror. This issue was taken

¹⁰⁷ILCP, 10 Feb 1919, pp 553-76

¹⁰⁸Report of the Select Committee, 7 Mar 1919, *Gazette of India*, 1919, part V

¹⁰⁹See Notes in Leg. A Progs., Feb 1920, 1-21 (Confid.)

¹¹⁰It meant that people would suspend business, on that day and observe it as a day of fasting and prayer.

up in the Legislature during the session that followed. There was heated discussion on a resolution [moved by Malaviya in which he asked for the appointment of a Royal Commission to inquire into the conduct of Michael O'Dwyer. The speeches of the non-official Members show that they had no sympathy with the method advocated and adopted by Gandhi. But they were shocked by police excesses that followed. The Government of India realized the weakness of its own position because they had supported the Punjab Government and they had also foreseen that they would be urged to have an inquiry. Moreover, the Government had decided to introduce the Indemnity Bill and it was thought wiser to pour cold water over agitated discussions and also to enable the Secretary of State to check any organized campaign against Michael O'Dwyer in Britain.¹¹¹ Commission of Inquiry was finally appointed under Hunter to inquire into the happenings in Punjab, Delhi and Bombay before this question was taken up in the Legislature.¹¹²

The Government had expected that in view of the appointment of this Commission, Malaviya would withdraw the resolution. But Malaviya did not do so. Instead, he tried to revise its wording so as to secure an alteration of the personnel of the Committee and to secure the presentation of the report not to the Government of India but to His Majesty's Government. But he was not allowed to do so on the ground that the last minute change was 'plainly unfair' to the member in charge of the motion. But the real reason was that the Government was unwilling to enter into debate on Malaviya's terms and, therefore, there was no question of permitting such a change. Malaviya spoke eloquently. His main argument was that since the Government was a party to the affair, it could not receive the report. But his attempt to speak on the revised motion while professing to move the original one led to his being frequently called to order. The motion was, of course, defeated.¹¹³

¹¹¹Note by W.S. Marris, 28 May 1919, Home (Political) A Progs., Aug. 1919, 1-16 and K.W.

¹¹²See Home (Political) A Progs., Oct. 1919, 425.

¹¹³ILCP., 10 Sep. 1919.

The criticism of the conduct of Government officials created a feeling of insecurity in the services. In order to reassure them, the Government of India decided to exonerate and indemnify those officers in Punjab who had acted outside the letter of the law but in good faith and reasonable belief that their actions were necessary. The officials expected opposition from the vocal section of the non official members. They used certain amiable non official members to canvass Government point of view¹¹⁴. The opponents of the measure employed dilatory tactics. When motions for leave to introduce the bill came up for discussion, Malaviya moved an amendment asking for postponement of its introduction. On this motion he spoke for more than four hours continuously, on Viceroy's own testimony with 'extra ordinary fluency throughout'¹¹⁵. His main argument was that opposition of the people was an inevitable consequence of tactless treatment meted out by Government to persons already 'exasperated by official stupidity and harshness'. No Select Committee was appointed to consider the Bill. The non official Members moved more than thirty amendments to this bill of six clauses. These were moved mostly by Malaviya, Sinha and Sharma. Though some of the amendments they moved were accepted, the opponents of the Bill remained unreconciled. Finally, when the motion to pass the Bill came up for consideration division was not challenged. In official circles this was regarded as an indication of a distinct confession of failure on the part of the non official Members to shake the confidence which the Government had inspired amongst the moderates. Chelmsford attributed the success in passing the Indemnity Bill without having to use official majority to Vincent's presentation of the case at the outset, Shastri's excellent private work in support of Government's stand and to Lowndes telling and persuasive speech at the end.

The question of Punjab 'disturbances' remained a hot issue even at the Delhi session of 1920 though this question did not come up for discussion. In this session a resolution from Patel recommending the publication of the Report of the

¹¹⁴Chelmsford to Montagu, 20 Sep. 1919, Chelmsford Papers, v. 5

¹¹⁵*Ibid*. In all he spoke for six and a half hours on this bill

Punjab Government was admitted. But it was treated as withdrawn when it could not be reached on the day for which it was placed on the agenda. However, the question that created bitterness between some of the members and the Government was the decision to disallow Shastri's resolution recommending that deterrent punishment be meted out to officers guilty of improper exercise of the martial law powers. The officials felt that the debate on this issue would further fan the embers of this inconvenient controversy and that the question had been adequately discussed in the Legislature and in the British House of Commons. Chelmsford also reported that even the moderate leaders did not want this debate though, if it did take place they could not help voting in favour of this motion. He said that Banerjea asked him 'to save them from themselves'.¹¹⁶ Justifying this step, Chelmsford stated in the Legislature: 'If peace and goodwill are at any time to be restored in the Punjab, these public discussions of the happenings of last year must so far as possible be brought to an end.' Shastri and Ayyangar retaliated by withdrawing all the resolutions of which they had given notice.

Appointment to Public Services

The Morley-Minto reforms were not designed as a step in the direction of the establishment of self-government in India at any foreseeable date. But they had ignited hope in the hearts of the moderate leaders. In the association of an increasing number of Indians with the work of legislation and appointment of Indians to the Executive Councils, they saw at least a tacit recognition that the British were ready to appoint Indians to responsible positions and of the readiness of the bureaucracy to recognize this. In the Imperial Legislative Council they took up questions relating to association of Indians with the work of administration at various levels, of appointment of an increasing number of Indians to highest offices in the state particularly the much coveted Indian Civil Service and also of constitutional changes at local, provincial and central levels so as to create more opportunities for Indians of being associated

¹¹⁶Chelmsford to Montagu, 1 Sep. 1920, Chelmsford Papes (6).

with the work of administration. Their arguments, based as they were on British traditions, theories, pronouncements, promises, official figures and reports of commissions were not easy to repudiate. Neither the questions Indian members raised nor the arguments they put forward were new in themselves. What was different now was the obligation on the part of officials to provide answers to their arguments. A study of debates on these issues shows that the officials found it a taxing task. They often sidetracked issues or picked up some technical difficulty relating to wording of the resolution or past declaration of a government and kept reiterating these in the most dreary and unconvincing way. Thus the debates helped in exposing the constraints of a colonial government and also the disability under which the subject people must continue to work until they could establish self government.

On the question of claims of Indians to more extensive employment in the Indian Civil Service, the first resolution was moved by N. Subba Rao, the member representing the 'general' seat from Madras. He moved that 'a mixed commission consisting of officials and non officials be appointed to consider the claims of Indians to higher and more extensive employment in public service connected with the civil administration of the country'.¹¹⁷ Moving the resolution he referred to the promises made in the Charter Act of 1833, Queen Victoria's Proclamation and in various other pronouncements that in making appointments to public services no distinction of caste, colour or creed would be observed between various subjects of His Majesty. This, he said, was not observed in practice. He pointed out that after the report of the Public Service Commission of 1886-87 presided over by Aitchison, the position of Indians, rather than improving, had become worse. A few striking appointments made to the Secretary of State's Council, and to the Executive Council of the Governor-General and the governors had not really changed the situation as regards other appointments. He pointed out that on the recommendation of that Commission the division of the civil services into imperial and provincial was carried out which had put a stigma of inferiority on the provincial service and made it

unpopular. Secondly, since that Commission reported, competition had been abolished more or less throughout the country and nomination was not a suitable method of making appointments. He further pointed out under the rules framed in 1879 one sixth of the annual recruitments in Britain could be made in India by the appointment of statutory civilians and that the Public Service Commission had reduced this proportion. In 1910 there were 993 ICS officers of which 165 (i.e. one-sixth of the total) should have been Indians while their actual number was 102. In addition, those Indians who could not go to Britain to compete in the examination, for various obvious reasons, were automatically debared. Anticipating arguments on behalf of the Government he said that to say that thousands of Indians held government jobs in the lower rungs of the ladder was no answer to the question. The question was: What was the actual share of Indians in the direction and supervision of administration of their own country? He also added that only about seven per cent of the appointments carrying a salary of one thousand rupees and above were in the hands of Indians. Alluding to the long term consequences of the system, he said that the true ideal of the government should be that with the passage of time India should become a self-governing unit of the British Empire, that in formulating any policy this ideal should be kept in view and that under the existing system expert knowledge and ripe experience gained in the administration of the country were continually drained away. Arguing that the system cast a slur on the capability of Indians which was not for the good name and well-being of even the British Government, he said:

You may give us magnificent works of irrigation, you may build up a vast system of railways, you may lighten the burden of taxation, you may drive out famine and bring plenty into this ancient land; but so long as manhood is dwarfed and self-respect is wounded, there can be no real contentment and real co-operation with the Government of the country.¹¹⁸

¹¹⁸ *Ibid.*, p. 501.

In the debate the Indian members showed a keen perception of the real issues involved and also of the real reasons behind the reluctance of the rulers in accepting their demand. N. Subba Rao stated that the real issue was whether the relationship between the Europeans and Indians should be mainly of comradeship and co-operation born of equal status and equal privileges, or whether it should be of timid dependence and psychology born of a relationship of superior and inferior. Gokhale amplified the reasons by quoting from a report submitted by De Pree, Head of the Survey Department, where he had argued that it was suicidal for Europeans to admit that Indians could do anything better than Europeans.

Suicidal indeed it would have been for the British to admit even theoretically that Indians could be their equals in capacity, will, efficiency, ability and knowledge. For, with it would have disappeared the sole justification for the perpetuation of British rule, the maintenance of which was so important for their State, economy and national self-respect. A. E. Earle, Home Member, replied to this resolution and the arguments advanced by him offer a good example of Government's strategy in the *Legislature and of its hollowness*. The Government had anticipated that the Indians would emphasize the need to hold simultaneous examinations for recruitment to the Indian Civil Service and he concentrated on this argument. He pointed out that the system of examination was not the best system of recruiting Indians 'whom we require to assist us in the administration'. Whom did the Government want to recruit was the question that was too obvious. Another argument he gave was that the average education—both its 'intellectual character' and 'general character' in India was behind that given in similar institutions in Britain. The question that naturally followed was 'Whose responsibility it was to introduce better system of education?' But such a question could not be raised in this context for the issue under discussion was not the system of education but recruitment to the Civil Service. The Hon'ble Home Member further pointed out that the effect of introduction of the examination system would be to tempt educational institutions to shape their courses of study with a view to enable students to secure success at the examination rather than 'to impart a general liberal education to the mass of their scholars'.

Implicit in this argument was the assumption that it was more convenient for the Government to create better citizens in India than better administrators. Finally, the Home Member put forward the oft repeated justification for the maintenance of the status quo and that was the difficulty of maintaining a balance between various communities. He also said that the number of Indians was steadily increasing from two per cent in 1867 to seven per cent in 1903 and 8.6 per cent in 1910. But even this argument had been given without much conviction for the non-official members had already expressed dissatisfaction with this slow rate of change.

Subba Rao withdrew his resolution after the Government agreed to hold an inquiry into this matter. Later, largely as a byproduct of this resolution,¹¹⁹ a Royal Commission was appointed in August 1912 under Islington, the Ex-Governor of Newzealand which included four Indian members—Mahadev Bhaskar Chaul, Sir Abdur Rahim, Gokhale and Madge. The Commission was not required to suggest any restructuring of the Administrative Services. It was required merely to examine and suggest changes in matters relating to methods of recruitment and training, conditions of service relating to leave, pension and salary and such limitations as existed in the employment of non-Europeans. Though the Commission submitted its report in August 1915, it was not published until 26 January 1917 because of the preoccupation of the Government of India and Britain with War.¹²⁰ By this time the political horizon in India had changed considerably. There was an increasing emphasis on the association of Indians with every branch of administration. This report was received with great disappointment and indignation. Bhupendranath Basu condemned the report as 'an insult to our commonsense'. The Government of India also recognized the importance of consulting at least a section of the nationalist leadership before taking action. In this background when Malaviya moved a resolution asking the Government not to take any action on its recommendations until 'reasonable opportunity' had been afforded to the members to bring forward their resolutions, his suggestion was accept-

¹¹⁹See speech by Malaviya, ILCP, 21 Sep. 1917, p. 327.

¹²⁰*Report of the Royal Commission on Public Services in India, 1915.*

ed¹²¹ Consequently, at the Simla session of 1917, in contravention of the long-standing practice of avoiding the discussion of controversial subjects at Simla, members were allowed to move resolutions on the issues discussed in this report

At the Simla session of 1917 and the Delhi session of 1918, as many as thirteen resolutions were moved on this subject Of these nine were moved by Srinivasa Shastri, three by Malaviya and one by Sharma These centred on the recruitment of Indians to the public services and specially the Indian Civil Services because this was the core of the administrative structure and it was from this that Indians were calculatedly excluded On this question the Commission had started from the basic premise that the nature of British responsibility for the good government of India required the employment in the higher ranks of the Indian Civil Service of a preponderating proportion of British officers¹²² They suggested that recruitment could be made partly in Britain and partly in India by means of a separate examination But since this involved the risk of service being suddenly swamped by the Indian element a go slow policy was recommended It was that provision should be made for a maximum of twenty five per cent of Indians in the superior posts of the civil service Even the Government of India did not expect that this recommendation would satisfy Indians¹²³

On the subject of the examination system Malaviya once again raised the long standing controversy by moving a resolution recommending that for recruitment to the Indian Civil Service simultaneous examination should be held in Britain and in India 'successful candidates being classified in one list according to merit'¹²⁴ Indians had always looked upon the holding of examination in Britain alone as an insurmountable handicap against Indian candidates Moving the resolution he said that unless this demand was accepted justice would not be done to the claims of Indians He also argued that disadvant-

¹²¹ILCP, 20 Mar 1917, pp 698-708

¹²²*Report of the Royal Commission on the Public Services in India*, 1915, para 36

¹²³See Home (Establishments) letter to Provincial Govts, 23 Jan 1919, Home (Establishments) A Progs, Feb 1919, 61-2.

¹²⁴ILCP, 21 Sep 1917, p 324

ages of this system were more serious than just political and economic disadvantages because it amounted to denial of moral and intellectual equality of Indians. Once again Vincent, put forward a very feeble defence in support of perpetuation of the system which remained unconvincing and elicited retorts from Malaviya. Replying to the Home Member's reference to the difficulties of arranging a viva voce in India, Malaviya cited some speeches of 1868 where it was said that this was not difficult. To Vincent's reference to the possibility of leakage of question papers, Malaviya pointed out that if the Government of India could preserve the secrets of the Finance Department, it should not be impossible to prevent the leakage of question papers. As to the opposition of communities other than Hindus to this system, Malaviya quoted the Agha Khan writing in favour of the simultaneous examination system and referred to the opinion of the Sikhs examined by the Commission. Expressing his surprise that the Home Member of the Government of India should have said that a system of examinations in India would lead to preponderance of Brahmins, Malaviya described the argument as preposterous. He said that many non-Brahmins were respected by all and were selfless workers. It is worth pointing out that not a single Indian member spoke or voted against this motion which was, however, rejected by mobilizing official votes.

Another hot issue regarding the examination system was the question of age for taking the examination. Ever since the maximum age limit for appearing in the Indian Civil Service examination was lowered to nineteen years during Lord Lytton's period, Indians had interpreted it as an attempt to restrict their recruitment. It may, however, be noted that the proper age for appearing in the civil service examination was being discussed in Britain in connection with recruitment to all the services and it seems that the intention at that stage was to attract the best possible young men directly from the public schools in Britain.¹²⁵ The effect of this recommendation was

¹²⁵For the age controversy for recruitment to the British Foreign Service see Ray Jones, *The Nineteenth Century Foreign Office* (London, 1971). See also Spangenberg, *British Bureaucracy in India* (New Delhi, 1976), p. 25.

inevitably to make it even more difficult for Indians to go to Britain for competing in the examination. The Islington Commission had recommended that the age for appearing in this examination should be from seventeen to nineteen years for British recruits and from twenty to twenty two years for Indian recruits.¹²⁶ Shastri took up this question in the Legislature.¹²⁷ The Government agreed to consider it not just because of the insistence in India but also because this recommendation had evoked protests from educational authorities in Britain.¹²⁸

Shastri moved another resolution recommending that it was desirable to include Indian history, Persian, Arabic and Sanskrit among subjects for the examination. This question was raised frankly with a view to affording some advantages to Indian candidates. Since the Government was merely asked to consider the question, the resolution was accepted.¹²⁹

Many of the resolutions related to the question of the proportion of Indians in various administrative services. The first resolution on this subject was moved by Sharma. He asked the Government not to accept the recommendations of the Commission relating to the proportion of Indians in the Indian Civil Service and the Police Service.¹³⁰ During the debate the assumption on which this proportion was recommended was denounced as involving a great and undeserved slur on the capacity of Indians to take a fitting share in the administration of their country. Another resolution was moved the next day recommending that the proportion of Indians should not be less than one half of the total number of posts included in the cadre of the Indian Civil Service and not one fourth as recommended by the Commission. This resolution was rejected after a division in which all the Indian non official members voted together. The third resolution was moved by Shastri recommending that the cadre of the Indian Civil Service should not be increased. Instead he suggested that all appointments to the judicial service should be made from the Bar in India. Though none of these

¹²⁶*Report of the Commission*, paras 9 and 21

¹²⁷ILCP, 24 Sep 1917

¹²⁸See Home (Establishments) A Progs., 1 Feb 1919, 61-2

¹²⁹ILCP, 5 Mar 1918

¹³⁰*Ibid*, 20 Sep 1917, pp 294-320

resolutions was adopted, in 1920, the percentage of recruitment of Indians for the Indian Civil Service was fixed at 33 per cent commencing in the year 1920 and rising by one and a half per cent every year.¹³¹ Two other resolutions were moved by Shastri recommending that recruitment to the Public Works Department, the Railway Engineering Service and technical and Scientific Services be made wholly in India and that efforts should be made to provide requisite educational training to Indians for the purpose.¹³² During the debate it was pointed out that if India was to take her place amongst the advanced countries of the world, it was essential to adopt such a policy¹³³ and that Indians should be sent abroad for training as was done in Japan.¹³⁴

The fact that all these resolutions received almost unanimous support from Indian members shows the depth of feeling on this issue. The solitary resolution during which a communal note was struck was the one moved by Shastri recommending that appointments to the great majority of the uncovenanted posts should be on the basis of the educational qualifications of the candidates irrespective of their creed or race. Moving the resolution, Shastri criticized the system under which educational qualifications were expressly lowered in order to admit candidates from the favoured communities.¹³⁵ Opposition from members of these 'favoured' communities was only to be expected. During the debate, communal feeling was introduced by Nawab Ali Chaudhri who said that besides education, good breeding and social status should be important considerations in this respect.¹³⁶ It is significant that he was not supported by any other Muslim or landholding Member. The case of the Anglo-Indians was championed by the Home Member himself who said that the claims of this 'deserving class' of men requir-

¹³¹See *Report of the Royal Commission on the Superior Civil Services in India*, 1924, para 35.

¹³²ILC P 27 and 28 Feb. 1918. See pp. 601-10 and 649-68 respectively.

¹³³Speech by Raja Rampal Singh, *Ibid.*, p. 651.

¹³⁴Speech by Banerjea, *Ibid.*, p. 652.

¹³⁵Speech by Shastri, 27 Feb. 1918, *Ibid.*, p. 611.

¹³⁶Speech by Nawab Ali Chaudhri, *Ibid.*, p. 619.

ed special consideration ¹³⁷ In his reply, Shastri said that if it was felt that a community would stand to lose by uniform educational test, then the fault lay in their being spoon fed by the Government To the argument that they had enjoyed special rights for many years, Shastri gave a spirited reply He said

Now injustice does not become justice, impropriety cannot become propriety, partiality cannot become even handed justice merely because it has antiquity behind it ¹³⁸

The members of the European Commercial community expressed grave misgivings about the increase in the number of Indians in the public services They felt that their interests were likely to be jeopardized by any change in this direction They had not welcomed Montagu's proposals ¹³⁹ Sir Hugh Bray, the representative of the Bombay Chamber of Commerce, stood up to oppose the first resolution on the subject Putting forward the case of his community, he said

What we will not do, Sir is to follow hitched to the tail board, with no control over the pace, no power to check a too quick descent, left to pick up what feed we can by the way side when halted and called upon only to give an extra pull now and then to get the wagon out of the mine or upon extra steep ascent This is the position which we will not accept ¹⁴⁰

He wanted one of the two guarantees in case the Government of India accepted the proposals—either the Government must retain sufficient control or that in the bodies created the commercial community must be given adequate representation However, Shastri amplified that no change advocated by them however sweeping they might appear, was intended to be carried out with any prejudice whatsoever to vested interests

¹³⁷Speech by Vincent, *Ibid*, pp 613-7

¹³⁸*Ibid*, pp 622-3

¹³⁹Banerjee *A Nation in Making*, p 282

¹⁴⁰ILCP, 20 Sep 1917, p 302

The Government officials, on their part, were not ready to throw the report prepared after much deliberation and care upon the scrap heap with absolute contempt. Basically, the stand taken by Government officials was that it was essential to maintain the British character of administration and that it was unsafe, undesirable and unstatesmanlike to commit themselves to any departure from this stand at that stage. However, the officials agreed to take the debates in the Legislature into consideration before orders, during the course of the years 1919-1920, on the recommendations of the Commission on the Public Services, were passed.¹⁴¹

This, however, could not console the Indian side. Expressing consternation at the attitude of the Government, Wacha said:

The whole upshot is that you regard our intellectual qualifications and everything else as if they were nothing to speak of, as if our forefathers and ancestors for centuries had no administrative abilities and no literature. In short, they were idiots and fools. That is the way we are all treated by those in power and authority.¹⁴²

But such arguments ignored the fact that in order to maintain their rule it was essential for the British to maintain unhampered control over the superior services and that in order to exclude Indians, the conception of racial superiority of the rulers had to be perpetuated. Alternately, if Indians were to govern their own affairs, they would have to be admitted.

In 1913, Surendranath Banerjea took up the issue of the separation of judicial and administrative functions in the administration of criminal justice. This had been one of the most prominent demands of the Indian National Congress urged upon the Government from the columns of the Indian press and from the public platform. Their chief argument was that

¹⁴¹See Home Deptt. letter to Local Governments, No. 594-C, 23 Jan. 1919, Home (Estabs.) A Progs., Feb. 1919, 61-62 and G.G. in C. to S.S., Home (Estabs.) No. 19, 18 June 1919, Home (Estabs.) A Progs., June 1919, 206-7.

¹⁴²LCP, 28 Feb. 1918, p. 661.

the combination of administrative and judicial functions in a district in which the District Magistrate was at once the head of the police and of the magistracy was not only wrong in principle but coloured the administration of justice. They also argued that this lumping of the prosecutor and the judge in one and the same person was repugnant to the inborn instincts and traditions of Englishmen. During Lord Minto's administration, as a part of the general policy of pacifying the moderate leaders, the Government of India had conceded that under the then existing system criminal trials affecting the general peace of the district were not always conducted in an atmosphere of cool impartiality which would have pervaded in a court of justice and that it was better to adopt the principle of separation because a combination of executive and judicial authority engendered a feeling of distrust in the impartial administration of justice which is damaging to the prestige of the Government.¹⁴³ On these grounds the Government of India made public its intention to 'advance cautiously and tentatively' towards separation on an experimental basis in some districts of the two Bengals. The Government of India consulted the provincial governments on this issue who did not view this announcement favourably because it was calculated to weaken the power of the district officer. It was at this stage that Surendranath Banerjea took up the issue in the Legislature. He moved that a certain sum of money as the Government 'may think fit' should be set aside with a view to enable the carrying out of the experiment of the separation of judicial and executive functions in the administration of criminal justice in areas to be selected by them with the approval of the Government of India.¹⁴⁴

In the debate that followed as many as fourteen non official members participated.¹⁴⁵ They pointed out that the only objections raised to implementing this scheme were prestige and cost. As to prestige, Banerjea said that it was a poor sort of

¹⁴³Speech by H. Adamson, ILCP, 27 Mar 1907.

¹⁴⁴ILCP, 7 Mar 1917, p. 383.

¹⁴⁵Maharaja Manindra Chander Nandi, Raja Kushal Pal Singh, Sri Ram Bahadur, Raja Ranjit Singh, Sita Nath Raybahadur, Malaviya, Ghaznavi, Vijayaraghavachariar, Rahimtoolah, Madhusudan Das, Jehangir J. Vakil, V.R. Pandit and F.C. Ebrahim.

prestige which was associated with a system that was indefensible in theory and, in practice, resulted in the miscarriage of justice. As to cost he said that the Government made a surplus of above one crore out of the law courts. The first charge of this surplus balance should be an improved administration of justice.¹⁴⁶

The Government officials were placed in a very uncomfortable situation because it was difficult to defend the system on theoretical grounds or on the ground that it would be against the interests of a particular community. It did not even involve devolution of power from the rulers to the ruled. Some Britishers tried to dismiss this demand as an outcome of the selfish motives of pleaders and *vakils* who hoped 'to obtain some of the spoils in the form of appointments to the judicial service.'¹⁴⁷ But even R. Craddock who argued that the proposal was 'in a high degree dangerous' conceded that 'this policy has its warm and honest supporters on its merits, and also many dishonest adherents who see in it a means to gain their political ends.'¹⁴⁸ The real reason for opposition was stated by him in a private letter to Hardinge:

...it would accelerate that gradual process of disintegration of executive authority, which has already begun to set in, as our courts are slowly succumbing to the influence of the bar and the press.... I feel so deeply that the agitation for separation, although it may have many honest advocates, is fraught with ruin to the whole fabric of our rule in this country. It is not enough that we should have good intentions and the will to protect the people, but we must have the power also.¹⁴⁹

It was the desire to continue to possess unobstructed power that determined the decision of the Government. But this could,

¹⁴⁶ILCP, 7 Mar. 1913, pp. 386-7.

¹⁴⁷See Chirol to Hardinge, 23 May 1913 and Hardinge to Chirol, 12 June 1913, Hardinge Papers, v. 93.

¹⁴⁸Minute by Craddock appended to G.G. in C. to S.S., 11 Dec. 1913, No. 48 of 1913, Home (Judl.) A Progs., Dec. 1913, 307-16.

¹⁴⁹Craddock to Hardinge, 18 May 1913, *Ibid.*

of course, not be stated in the Legislature. The Home Member took advantage of the fact that the resolution was moved as a resolution on the financial statement and declined to accept it on the ground that an unknown sum of money could not be allotted for undetermined experiments. Malaviya's pleading that it was not fair to expect a non official Member to put forward a cut and dried scheme or the unanimous vote of all the non official members did not have any effect. The resolution was rejected by mobilizing official majority.¹⁵⁰ But it became incumbent upon the Government of India to take some decision on this subject. Finally, it decided not to introduce any change in this respect and refused to pay any heed to the opinion expressed in the Legislature on the grounds that the personnel of the Government of India had entirely changed, that the provincial governments were not in favour of it and that the 'masses' of the people had never expressed dissatisfaction with the procedure.¹⁵¹

Association with Administration

The moderate leaders had looked upon the constitutional system inaugurated in 1909 as a staging point on the road to self-government. They held that this system could not work meaningfully if it was not immediately followed up by greater association of Indians with the work of administration at all levels and they took up this question in various resolutions.

The Morley Minto reform scheme had not touched the question of introducing changes in local self government because the Decentralization Commission was going into the question. But the report of this Commission was disappointing because the question was viewed as an aspect of administrative devolution than of associating Indians with the work of administration.¹⁵² What the educated Indians wanted, as Gokhale put it, was 'that the car of administration should not merely roll over their heads but that should be permitted to join in pulling

¹⁵⁰ILCP, 7 Mar 1913, p 401

¹⁵¹G G in C to SS, 11 Dec 1913, No 48 of 1913, Home (Judl) A Progs, Dec 1913, 307-16

¹⁵²*Report of the Royal Commission on Decentralization in India, 1908, v 1*

at the ropes.¹⁵³ It was with this end in view that the question was taken up in the Legislature by Gokhale in 1911 and 1912 and by Banerjea in 1914. It must, however, be said that in popular estimation, the question of local self-government occupied a place secondary to constitutional reform,

In 1911, Gokhale moved a resolution recommending that steps should be taken to bring the district administration into closer touch with the people by creating, as far as possible, in every district, a district council, composed of not more than nine members, partly elected and partly nominated, whose functions should be advisory to begin with and whom the collector should ordinarily be bound to consult in all matters. During the debate, he regretted the attitude adopted by British officials towards educated Indians and said that the fact that of the sixty-eight officials who gave evidence before the Commission, nine were in favour of such a change added much weight to the suggestion because they belonged to a bureaucracy that was 'more firmly rooted in absolute power than the Conservative Party of England.'¹⁵⁴ R.H. Craddock, who replied on behalf of the Government, argued that Indian members of the provincial services were both 'Indian' and 'educated' and were, therefore, fit to interpret the views of this class to the collector. But this was precisely the complaint. The whole administration was bureaucratic in character based on reports received from below and carried on under orders received from above. What the Indian members wanted was that things should be less like a machine working automatically, and more like an institution which concerned itself with human beings. The resolution was lost though all non-official Indian Members except Madge and Chitnavis voted for it. Chitnavis thought that it was an 'ambitious experiment',¹⁵⁵ while Madge held that it was an attempt to extend to the executive administration a process which was still on trial in the Courts of Justice and that in India, the conditions differed from those in Europe.

¹⁵³Speech by Gokhale, 27 Feb. 1912, ILCP, p. 232.

¹⁵⁴*Ibid.*, pp. 225-7.

¹⁵⁵*Ibid.*, pp. 233-4.

Gokhale's second resolution recommended the appointment of a Committee to enquire into the adequacy or otherwise of the resources at the disposal of local bodies for efficient performance of the duties which had been entrusted to them and to suggest means of improving their financial position ¹⁵⁶ In the course of the debate, he voiced the longstanding grievance of Indian leaders that too much money was spent on the maintenance of the administrative machinery and the army while too little attention was paid to improving the condition of the people. He pointed out that education, sanitation and communications were services which required to be looked after as well as those under the charge of the Imperial Government. This resolution too was lost though once again it was supported by all Indian members except Madge.

Surendranath Banerjea's resolutions, recommending that the Presidents of the district and local boards be elected and a local government board be created in each province, too, received unanimous support. Craddock denounced his recommendations as 'impracticable' and 'radically defective', which had 'no part in the present system of administration and cannot possibly have any part in future system of administration' ¹⁵⁷

Though these resolutions were not accepted, some of the views expressed by them were embodied in the resolution on local self government issued in May 1918 ¹⁵⁸ But by the time this resolution was issued the attention of Indian leaders was focussed on further reforms at the national and provincial levels. In fact, a resolution was moved in the Legislative Council recommending that legislation on this subject should not be undertaken until new and enlarged legislative bodies were established in the provinces ¹⁵⁹

The question of establishing executive Councils in the provinces which did not have them was also taken up in the Legisla-

¹⁵⁶*Ibid*, 13 Mar 1912, pp 483-502

¹⁵⁷Speech by Craddock, *Ibid*, pp 954-6

¹⁵⁸Deptt of Education (Municipalities) Resolution No 41, 16 May 1918, Home (Public) B Progs, May 1918, No 513, See also Banerjea, *op cit*, p 275

¹⁵⁹See Resolution by Patel, ILCP, 24 Sep 1918, pp 370-3

ture. At that time, the three presidencies of Bengal, Bombay and Madras were governed by a Governor and an executive Council of three members of whom one was in practice an Indian and two were usually appointed from the Indian Civil Service. One province, Bihar and Orissa was administered by a Lieutenant-Governor with an executive Council of three constituted in the same way. The remaining five provinces, that is to say, the three lieutenant-governorships of the United Provinces, Punjab and Burma, and the two chief commissionerships of the Central Provinces and Assam were under the charge of a single official head. The Indian Councils Act of 1909 had empowered the Government of India to create councils in the larger provinces by proclamation if no objection was taken in both Houses of British Parliament within forty days of placing the proclamation on the table.¹⁶⁰ Several resolutions were moved on this subject. The question of establishing an Executive Council in the United Provinces was raised by S. Sinha in 1911 and by Sapru in 1917.¹⁶¹ At the Simla session of 1917 Shafi moved a resolution recommending the establishment of an Executive council and a High Court in Punjab. The Government at first rejected these resolutions, but in 1917, in view of the forth-coming constitutional changes, it agreed to consider the question sympathetically.

Broadly speaking the Indian members argued that a Government by many was preferable to a Government by one man because when administration centered in a single man, the pressure of work inevitably resulted in some matters of importance being disposed of in his name without personal reference to him. They also pointed out that collective decisions were more likely to be judicious and well-weighed. They advocated this to convince the Rulers of the need for associating some Indians with the administration.

The growth of political awareness led to consciousness of local culture and language. In the wake of impending reforms a desire was expressed for the redistribution of provinces on this basis. Strictly speaking, any discussion on the subject was

¹⁶⁰9 Edw. VII, c 4, s. 3.

¹⁶¹ILCP, 24 Jan. 1911 and 22 Feb. 1917 respectively.

not within rules because the Legislative Council had no power to legislate on this question. But the Government of India had decided to invite free discussion.¹⁶⁰ In 1918, Sharma moved a resolution recommending redistribution and constitution of the provinces on a linguistic basis, especially where people speaking a distinct language and in sufficiently large numbers desired such a change.¹⁶¹ Moving the resolution, Sharma said that this policy would promote educational and administrative efficiency, reconcile people to additional taxation and would increase the efficacy and possibility of social legislation.¹⁶² This solution was opposed by all the non-official members who participated in the debate. The only member who gave qualified support was Kamini Kumar Chanda, the representative from Assam, who wanted to put forward the case of the people of Sylhet who wished to associate themselves with Bengal instead of Assam.¹⁶³ The opposition of the non-official members to this proposal showed that they were conscious of the long term consequences of accepting such a plan. They pointed out that any such scheme could prove to be a veritable apple of discord. Jinnah described it as 'a most mischievous resolution' inspired by a desire to gain popularity in the province.¹⁶⁴ Another resolution on the subject was moved by Sinha in response to a demand from the Utkal Conference recommending the amalgamation of the Oriya speaking tracts with the Orissa division of the province of Bihar and Orissa. His main argument was that the geographical demarcation was wholly misleading and that being in a minority in many provinces, the Oriyas did not have a determining voice.¹⁶⁵ He was supported only by Banerjea who described the situation as intolerable and inconsistent with the self-respect of a growing and advancing community.¹⁶⁶ The Government agreed to consider this question.

¹⁶⁰Note by W S Marris (Chief Reforms Commissioner), 30 Jan 1918, *Leg A Progs*, Mar 1918, p 11

¹⁶¹*JLCP*, 6 Feb 1918, p 483

¹⁶²Speech by Sharma *Ibid*, pp 483-9

¹⁶³Speech by Chanda, *Ibid*, p 493

¹⁶⁴Speech by Jinnah, *Ibid*, p 506

¹⁶⁵*Ibid*, 20 Feb 1920, p 828

¹⁶⁶*Ibid*, pp 835-7

The appointment of Indians to the Executive Council, both at the Centre and in the provinces, led to a demand for the appointment of Indians in various capacities, a demand which acquired additional momentum during the War. Three resolutions were moved recommending the appointment of an Indian to the Central Recruiting Board,¹⁶⁹ to the Army in India Committee and to the post of Chief Reforms Commissioner. The non-official members argued that an Indian would tend to watch the proceedings of the departments from 'an Indian point of view'. Of these, the second resolution was accepted. But the appointment of Malik Umar Hyat Khan of Tiwana to the committee was not welcomed.¹⁷⁰ Another resolution moved by Chanda, recommending the appointment of a High Commissioner for India in London was accepted. It was, however, made clear that his functions would be confined to the purchase of stores.¹⁷¹

The debates in the Legislative Council were apparently futile at least in their immediate effects. There is hardly an instance of the Government changing its announced policy as a result of these debates. But these throw interesting light on the attitudes and responses of both the official and the moderate section of the Indian leaders. In spite of having a perpetual majority in the Legislature, the officials did attach importance to gaining the support of non-official members, made attempts to gauge their opinion, and tried to win their goodwill by a liberal interpretation of rules of business, though without lessening their determination to push the measure through. It is also notable that the Indian members of the Executive Council always opposed attempts to pass repressive measures and, to the best of their ability, they made efforts to impress upon officials the need to adopt a conciliatory policy. S.P. Sinha threatened to resign by way of protest against the provisions of the Press Bill, S.A. Imam opposed the introduction of the Seditious Meetings Bill and the Defence of India Bill, and Shankaran Nair resigned as a protest against the Jallianwalla massacre. At the same time, in their public speeches they loyally supported

¹⁶⁹ *Ibid.*, 25 Sep. 1917, pp. 404-8.

¹⁷⁰ See speech by Sinha, *Ibid.*, 20 Sep. 1919, p. 454.

¹⁷¹ See speech by Marris, *Ibid.*, pp. 924-6.

the Government. But their underlying commitment to the Indian cause did not always remain concealed. Commenting on Sinha's handling of the Press Bill, a correspondent of the *Mahratta*, for example, wrote 'S P Sinha is a born advocate. He put the case on behalf of the Government in a masterly way. But I dare say he could have argued it much better and more forcibly on the other side'¹⁷²

The Indian Members showed remarkable persistence despite the tenacity shown on the official side. The unyielding posture adopted by the Government on the one hand and the ridicule to which they were subjected by the Extremists placed them in a very unenviable position. It may also be noted that as the atmosphere outside the Legislature acquired increasing anti-Government overtone the Indian members also became more pronounced in their opposition to Government measures. During debates on the Rowlatt Bills complete polarization between the official and the non-official sides was seen.

In each case it could be clearly seen that the government had not been able to put forward any convincing justification for its policies. It seemed that the arguments were nearly always on Indian side, only the votes were against them. Their disappointment is writ large on the proceedings of the Legislature. Castigating the officials for their unyielding attitude, D E Wacha, the veteran Moderate leader, voiced their feeling

We are all dissatisfied, The Members on behalf of the Government have risen in their places one after another and tried to say we are doing this and we are doing that, and that our progress is great. What is eventually the substance of their speeches? This, "we have full sympathy with you. This matter will receive our most sympathetic and careful consideration." But there the matter ends ... *Substantial progress is only possible when full self-government that we are asking for is given*¹⁷³

¹⁷²*The Mahratta*, 13 Feb 1910

¹⁷³ILCP, 28 Feb 1918, p 660

The real long-term significance of the debates lay in focussing attention on the fact that Indians were unable to persuade the Government to change their policies not because their stand was not based on sound foundations but because, the constraints and compulsions of foreign rule did not permit the officials to accept their demands.

Chapter VI

Legislature at Work

Demand for Industrialization

Sir Ibrahim Rahimtoola echoed the feelings of all thinking Indians when he said in the Legislature that 'the Indian ambition' was 'the growth development of industries in India making it one of the foremost manufacturing countries in the world'. The Indian members took up various aspects of industrialization during debates on the financial statement and by means of resolutions on the financial statement and matters of general public interest. The issues they raised were not new in themselves. But as long as these found vent only in books and newspapers or in public speeches and resolutions, they could be ignored. The situation, however, changed after the Indian Councils Act of 1909 mainly in two ways. First, on economic questions all Indian members, irrespective of the heterogeneous constituencies and the interests they represented, showed remarkable unanimity. They examined official policies regarding trade, transport, tariff duties, currency, exchange, banking, finance, company laws and factory laws in their relationship to the paramount aspect of industrialization. Secondly, the officials were now obliged to provide answers to the points raised by Indians and to justify government policies. So far the rulers and

the ruled had stood side by side in this respect, now they came face to face. What followed was a virtual tug of war between officials as spokesmen of entrenched imperialism and Indians as spokesmen of insurgent nationalism. One thing that these debates made crystal clear was that actual policy decisions were not taken after an objective analysis of what was in the best interest of India but in accordance with the interests of British capital and Empire. The result was that the officials found themselves on a weak wicket. This had ominous connotations for the perpetuation of the *Raj*.

The Indian members agreed with officials that the British had conferred many boons on India like centralized administration, security from external attack, law and order, means of communication and modern ideas. They reiterated this again and again in most unambiguous terms. But they did not agree with officials that the British in India were providing prerequisites for industrial development, that foreign trade and railways were engines of economic development and that if India was not developing industrially it was the result of retarding factors like non-availability of capital, low standard of living and lack of entrepreneurship. The Indian members argued that of the preconditions for industrial development—raw materials, labour, capital, entrepreneurship and markets—Indians possessed raw materials, unskilled labour and markets in abundance and that capital and entrepreneurship would be forthcoming if such conditions were created in which industrial ventures could have reasonable chances of success. They wanted the British Government in India to play a pivotal role in every field of economic activity. They contended that India was industrially backward not because of the policies of the Government but because of lack of policies. They wanted the state to provide capital to Indian entrepreneurs on easy terms, to make technical know-how available to them, to follow a railway policy that would benefit industrial growth and above all to impose tariff duties on manufactured goods so as to save nascent Indian industries from competition. They implored the Government to play the role of a national government as was done in Japan and Germany arguing that 'by the joint co-operation of the Government and the people there appears to be no reason why India, with all its natural

advantages, should not reach an equal, if not a higher, standard' ¹

A few features of the debates on economic issues may be noted at the outset. The members showed an acute awareness of the limits of the possible. In their resolutions they did not put forward schemes of a wild cat nature but only such practical suggestions as the Government was likely to accept. For example, they wanted the Government to encourage the setting up of sugar industries in India under Indian capitalists. But Malaviya moved a resolution in favour of a thirty per cent tariff duty on sugar to protect the sugar industry from competition though sugar mills were owned by Europeans. His chief argument was that growth of this industry would provide alternative means of livelihood in the countryside and would thus reduce the pressure of population on land ². Similarly, they beseeched the Government of India to play a pivotal role not because they fully trusted the foreign Government, since there was no prospect of political autonomy in the near future, they believed there was no other choice. The proceedings of the Legislature also show that in spheres where there was no need for patronage from the Government they showed disinclination to increase either the power or resources at the disposal of the Government.

This became clear during the debates in the very first session of the Legislature, when the Government imposed tariff duties on items like silver, petroleum, liquor and tobacco, Indian members of the select committee opposed these duties on the ground that there was no need for extra taxation because the Finance Department had underestimated revenue under several heads ³. The next year Gokhale moved a resolution recommending that a committee consisting of official and non official members be appointed to report on the causes of increase in public expenditure. They were criticised for adopting the attitude of opposition towards increase in Government revenues and expenditure. Sidney Webb, a thinker and pioneer

¹Speech by Rahimtoola, ILCP, 21 Mar 1916

²ILCP, 9 Mar 1911, pp 414-21

³*Report of the Select Committee*, 3 Mar 1916, Papers relating to Act VIII of 1910

in social and economic reforms in Britain, wrote to Gokhale that Indian members should aim at doubling Government's revenue by voting additional taxation and then press the Government to expand.⁴ But in opposing expansion in Government revenues, the Indian members showed an awareness of the real issues at stake. Their reasons were summed up by Gokhale in his speech moving the above resolution⁵ which was described as 'an intellectual treat' by none other than the Finance Member, himself. In short, Gokhale argued that the fiscal policy of the Government of India was not framed with a view to improving the lot of Indians. He pointed out that during the seven years from 1901-2 to 1908-9, which were years of surplus, while total civil and military expenditure of the Government of India had increased by 18 crore rupees, the expenditure on education had increased only by nearly 75 lakhs and that grants to local governments which were generally spent on welfare activities had increased by merely 60 million. They were thus conscious that benefits of increasing the revenues of the Government were not transmitted to the people. It is necessary to take note of their suspicion of the policies of the Government while analysing their demand for state patronage to industrial development.

In the Legislature members laid more stress on industrial development than on agricultural questions. The two important resolutions which were moved on the latter related to assessment of revenue on land.⁶ The reason was that tenancy legislation was reserved for provincial Councils. It is significant that in advocating extension in the period of settlement of land revenue, they did dilate upon possible benefits to tenants. The members also raised the question of increasing allocation of funds for development of irrigational facilities. This question was raised in every budget session in some form or the other.

Ever since Dufferin had accused educated Indians of opposing the imposition of tax on their incomes and instead supporting the salt tax which fell more heavily on the poor, British officials and writers had accused Indian leaders of look-

⁴Sidney Webb to Gokhale, 16 Mar. 1912, Gokhale Papers, (578/1).

⁵ILCP., 25 Jan. 1911, pp. 176-85.

⁶See ILCP, 24 Jan. 1911 and 13 Jan. 1914.

ing after their own interests ⁷ Reporting the reaction of Indian members to the announcement of the revised scale of income tax in 1916, Hardinge wrote to the Secretary of State that he could not help noticing an unhappy expression on the faces of the Indian members and a feeling that a considerable rise in salt tax would have been preferable ⁸ But the speeches delivered by the members on this occasion do not betray any such feeling. The Finance Member himself admitted in the Legislature that the proposal received 'almost unanimous support' ⁹ It is worth noting that in 1912 when Dadabhoy moved a resolution recommending that in view of the increased cost of living, the lower limit of income assessable to income tax be raised from Rs 1000 to Rs 1500 a year, he was not supported by other members. Opposition to increasing the income tax, when it did come, came from the landholders' representatives and officials. The Income Tax Bill of 1918 introduced for the first time the scheme of aggregating income from all sources for the purpose of determining the rate of tax. It were the officials who opposed this proposal and it was because of their opposition that this attempt was frustrated. It is true that the members thought of industrialization in the context of only the capitalist system of production and that the whole tenor of arguments was in favour of strengthening the capitalist class so as to encourage them to take the initiative and to expand. But their purpose was to industrialize the country at a fast rate. They believed that all classes of people would have their share in the prosperity which would ensue therefrom.

A special feature of the debate on economic issues was the sympathetic attitude of the Government of India towards the views of Indian members. As already seen, on political questions they were ranged opposite one another. The officials knew that any evidence of sympathy on the issue of economic

⁷In his article 'Lord Dufferin and the Character of the Indian Nationalist Leadership' in Bipan Chandra, [*Nationalism and Colonialism in Modern India* (New Delhi, 1979)] has shown very convincingly that this accusation cannot be substantiated either by contemporaneous nationalist attitudes or Dufferin's attitude.

⁸Hardinge to Chamberlain, 3 Mar 1916, Harding papers (122)

⁹ILCP, 23 Feb 1912, pp 85-99

development on their part would be welcomed very warmly. In 1910, Crewe, the Secretary of State for India, had vetoed a proposal of the Madras Government suggesting that in order to help industries in India, a Government agency should be created to demonstrate how some industrial improvement could be adapted with commercial advantage. Sir Arthur Lawley, the Governor of Madras appealed in vain to the Secretary of State to reconsider the decision on the ground that it would 'evoke great satisfaction'.¹⁰ In his memorandum on questions likely to arise in India at the end of the war, Hardinge also put forward a fervent plea in favour of this policy. Besides economic advantages, he referred to political advantages.

It is largely among the proletariat of ill-paid but busy-brained clerks, schoolmasters and the like, 'the intelligentsia' of India that political discontent has its origin. The prospect of the industrial development of their country, the expectation of some personal share in her commercial welfare and finally, the acquisition of a real stake in the success and prosperity of a manufacturing India, all factors which are bound to contribute in an increasing degree to political solidity and personal contentment. Nowhere is the political contrast so great as between Bombay, where Indians are commercially in the ascendent, and where their contentment and self-confidence steady and control the unstable elements, and restless Calcutta, where the educated classes can see nothing before them but the holotry of clerkdom, tempered only by the slender expectation of one or other of the few prize appointments under Government.¹¹

During the debates it became quite obvious that the Government of India had been compelled to yield to the pressure of vested interests in Britain. In fact the vigilance of Parliament over Indian affairs was more strongly exercised on economic issues than in respect to other aspects of state policy.

¹⁰Lawley to Crewe, 2 Mar. 1911, Crewe Papers, (c/52).

¹¹Memorandum by the Viceroy upon questions likely to arise in India at the end of the War, 17 Oct. 1915. Hardinge Papers (116).

T W Holderness, the Assistant Under Secretary at the India Office, rightly wrote

Opium, salt, income tax, the liquor excise, the cotton excise, the general import and export duties have all been battlegrounds on which great questions of ethics, economics and fiscal policy have been hotly debated and acrimoniously fought out. No Secretary of State can in these matters afford to let the Government of India have the keeping of his conscience or his judgement however disposed he may be, on general principles, to support their views and to give all possible weight to Indian opinion and sentiment.¹²

This made the arguments advanced from the official side seem mere excuses to put the real issue in an acceptable garb and their decisions were galling to Indian sentiment. Malaviya voiced their feeling in the Legislative Council

I am sorry to say that not you but His Majesty's Secretary of State is the Government of India, because it is an open secret, we all know it to our regret, that every matter of importance relating to the revenues of India must be decided by the Secretary of State for India. The influences to which he is subjected decide. Today it may be those who denounce the evil of supplying opium to China, tomorrow it may be the Lancashire merchants who do not want to lose any of their profits, the day after it may be the war office which thinks that certain burdens should be cast upon India.¹³

The debates on these issues were characterised by two features: virtual unanimity of opinion amongst the Indian members and unconvincing nature of arguments advanced on behalf of Government policies.

¹²Note by T W Holderness 19 Nov 1917, para 10, Chamberlain Papers, AC 22/91

¹³Speech by Malaviya, ILCP, 23 Mar 1917, p 804

Protection From Competition

The British maintained very low duties on Indian imports in the name of a free trade policy. It may be pointed out here that these did not only serve the interests of Lancashire, it suited the imperial system as well. India was a debtor country, a great part of whose net obligations were payable in a currency different from that in which her revenues were collected. She imported sixty per cent of the visible imports of private merchandise from Britain while Britain took less than one third of her exports. A large portion of Indian exports went to Continental Europe and America. This pattern of trade suited British needs. While Britain had a large duty free market in India, India earned a large exports surplus with continental Europe and America with which Britain had normally a large deficit.¹⁴

Indian leaders were practically unanimous in demanding protection for Indian industries. This was acknowledged in Britain. George Hamilton was reported to have said that Indians were Protectionists to a man.¹⁵ They believed that India could not prosper if Indian entrepreneurs had to face competition from goods manufactured in advanced industrial nations. They demanded not just preference but complete protection. This demand antedated to the controversy in Britain on this issue at the beginning of the present century. It started in 1879 when Lytton sacrificed the duty on cotton to satisfy British vested interests in a year of War, famine and deficit. It flared up once again in mid-1890s when the Government of India was forced to levy countervailing excise duty upon internal cotton manufacture on a level with import duty of five per cent. A deep-rooted suspicion began to grow that in commercial matters Britain had never dealt fairly with India and that she used her political power to keep India in a state of economic subjection. With growing political consciousness and increasing means of expression of opinion, this feeling became more vocal.

¹⁴See A.K: Bagchi, *Private Investment in India, 1900-1930* (OUP, 1972), pp. 48-9.

¹⁵Memorandum by T. Morrison, n.d. Enc. in Montagu to Crewe, 12 Mar. 1912, Crewe Papers (8).

This question was brought before the Legislature during various stages of tariff (Amendment) bills and in the form of resolutions. A study of the debates shows that Indian members were very sensitive on the un-Indian nature of the tariff policy which made India a dumping ground for manufactured goods of other countries. They were able to show that their country's interests were disregarded not only in respect of duty on cotton but in respect of all items in the custom list whenever those happened to clash with British interests.

As already stated in 1910 the Government decided to increase duties on liquor, tobacco, petroleum and silver. The members welcomed the duties on liquor and tobacco because by decreasing the import of these items, these duties could lead to decline in their consumption. But they criticised duties on petroleum and silver. The duty on petroleum was criticized on the ground that it was used to light lamps and, therefore, it would hit the poorest classes in the country. But the question was very unwittingly disposed of by the Finance Member by the argument that a great portion of oil was burnt by rich people and that 'the *rakyat* is one of those extremely shrewed persons who believe in the little verse 'Early to bed and early to rise, Makes a man healthy wealthy and wise''¹⁶

The duty on silver was bitterly opposed by the Indian members because it was likely to have adverse effect on exports to silver using countries. They argued that it would have an unfavourable effect on export of cotton yarn to China, where they apprehended, Japan would gain.¹⁷ But the amendment moved by Sir Sasson David, the Member invited to serve on the Legislature as an expert in commercial matters, was turned down. Gokhale's pleading that the country had a right to expect that the Government would not show such disregard for the interests of its greatest industry after agriculture, fell on deaf ears.¹⁸ Government officials admitted that since the announcement had been made, the exchange rate between China and India had fallen by three per cent within a week. But the

¹⁶Speech by Wilson, ILCP, 4 Mar 1910, pp 354-5

¹⁷See speeches by Gokhale and Sir Sasson David, *Ibid*, pp 305-9 and 314-5 respectively

¹⁸*Ibid*, p 303

Government which had maintained a cotton excise duty of three and a half per cent in deference to the wishes of British manufactures, pointed out: '...can we seriously be asked to believe that this handicap of two or three per cent is going to ruin Indian yarn industry.¹⁹ While this argument was thus turned down, much was made of the charge that in opposing the duty on silver, the members were ignoring the interests of the poor who kept their savings in the form of silver. Sir Guy Fleetwood Wilson, for example, taunted the Indian members by asking: 'Will you tell your humble artisan, your coolie and your *raiya* that you have done your best to prevent an enhancement of the value of their hard-earned savings?²⁰ Such incidents left behind a feeling that it was futile to expect a foreign government to play the role of a national government.

The duty on tobacco was not opposed at all in the Legislature. But in Britain, the British manufactures started approaching the Secretary of State asking him either to levy an excise duty or to remove the tariff duty in order to do away with the protection which Indian industry could get.²¹ In spite of the opinion of the Government of India that any such step would be 'politically imprudent and financially unnecessary,²² the Secretary of State ordered the reduction of import duties.²³ The predicament before the Government of India was thus stated by none other than the Finance Member himself:

The Secretary of State has issued an order and we cannot but obey it. He adduces no reason whatever for the change, merely making a bold statement that the existing duties cannot be maintained...It is painfully evident that Indian interests have been subordinated to home political election pledges.²⁴

¹⁹Speech by Brunyate, *Ibid.*, p. 331.

²⁰Speech by Wilson, *Ibid.*, p. 341.

²¹Speech by Sinha, *Ibid.*, 29 Mar. 1910, p. 681.

²²G.G. in C. to S.S., 12 Jan. 1911, para 6, Papers of Act VI of 1911.

²³Telegram from S.S. to G.G., 14 Feb. 1911, *Ibid.* 20 Feb. 1911.

²⁴Note by Wilson, Commerce & Industry Progs., June 1911, No. 53, F. No. 35, S. No. 5.

The non official members had come to know that the bill proposing a decrease in the tobacco duties was being introduced in the Legislature on the insistence of British manufacturing interests. On 1 March 1911, Mazhar ul Haque clearly stated

Nothing can be worse for the good relations between the Government and the people of this country than that the impression should go forth that the revenues of the country were being sacrificed not in the interest of the people, but in the interest and at the dictation of a certain combination abroad²⁵

The flimsy grounds on which the reduction of duty was defended came in for additional criticism. On behalf of the Government it was pointed out that somewhat lower duties would be financially more productive²⁶. Replying to this argument, Gokhale said that the import of tobacco during the financial year 1910-1 declined by about fifteen lakhs Pounds, and that the lowering of duty would mean a considerable increase in the import and the consequent consumption of tobacco. He asked the Finance Member to explain what had become of his solicitude for the welfare of the youth of the country²⁷. During the debate on Gokhale's amendment asking for postponement of the consideration of the bill for six months the Finance Member observed a situated silence and the amendment was ruled out of order after it was debated at length.

The question of duty on cotton did not come up officially until 1916 when the Government of India increased import duty on some articles which did not include cotton. But the members took up the question in the Legislature in the form of resolutions. On 9 March 1911 a resolution was moved by Dadabhoi recommending the abolition of the cotton excise duty. The debate and division on the motion showed complete unanimity of opinion among all non official members including Madge, Maung Bah Too and Sir Sasson David. As many as twelve

²⁵ILCP, 1 Mar 1911, p. 281

²⁶Speech by Wilson, *Ibid*, p. 241

²⁷Speech by Gokhale, 7 Mar 1911, *Ibid*, pp. 283-4

Indian non-official members spoke on the motion. They emphasized the importance of encouraging Indian cotton industry by creating favourable conditions especially at a time when this industry was facing depression. They also pleaded that in view of depression in the cotton industry, absence of direct competition between Lancashire and Bombay, non-protective nature of tariff duty, rise in the price of cloth for consumers, unpopularity of the tax and the feeling of injustice it caused, this duty should be abolished.²⁸

The Government of India was well aware of the intensity and unanimity of feeling on this issue. Hardinge had suggested removal of what he later described as 'this obnoxious tax' as one of the boons to be announced at the imperial darbar of 1911. The Government of India found itself at a loss to find convincing arguments. The official defence that was put forward was half-hearted. This was that the duty had not injured the Indian cotton industry, that at a time when opium revenue was about to disappear, the excise revenue from cotton amounting to forty-one lakhs of rupees could not be given up and that by encouraging the consumption of indigenous cloth, it would lead to decline in import of cotton leading to decrease in customs receipts. Hardinge later admitted that the Government of India had enlarged upon the difficulty of sparing this revenue 'chiefly due to the weakness of other arguments that could be found to put forward.'²⁹ Not only did the officials of the Government of India ask for increase in cotton import duty, they were unanimous in pleading that the excise duty on cotton should be entirely abolished. In 1916 Hardinge attempted to raise cotton tariff duty to five per cent while leaving excise duty at three and a half per cent. Austen Chamberlain, the new Secretary of State accepted the proposal and felt that because of War, British cotton interests could be pressed on patriotic and imperial grounds to satisfy Indian opinion.³⁰ But the cabinet refused to sanction the proposal on the ground that raising of

²⁸ILCP, 9 Mar. 1911 pp. 385-411.

²⁹Memo. by the Viceroy upon questions likely to arise in India at the end of the War, Oct. 1915, Hardinge Papers (116).

³⁰Note by Austen Chamberlain for circulation in the Cabinet, 17 Jan. 1916, Chamberlain Papers Ac 22/91.

the question during wartime would be 'little short of disaster'³¹ Consequently, in the Tariff (Amendment) Bill of 1916 cotton duties were conspicuous by their absence. The Financial Statement of Sir William Meyer contained a pathetic admission of the helplessness of the Government of India.³² In their correspondence with the Secretary of State, their consternation was expressed in most unambiguous terms

the levy of cotton excise is regarded both as most unjust in itself, and as most humiliating to India. India's position in this respect is not even that of the trustee dependent of whom Lord Hardinge spoke it is that of a vassal bound to submit to the will of the overlord if his interests clash with her own. The expediency of abolishing is a subject which unites all non-officials, European and Indian, who would carry with them practically unanimous official support also, if the officials were at liberty to express publicly their views on the subject. No enlightened country in these days would ever dream of imposing a special embargo, however small, upon one of her own industrial enterprises, and Indians feel with some justice that their rights are being sacrificed to the interests of a manufacturing community in England against whose powerful influence, their voice is of no account.³³

The opportunity for the Government of India came in 1917 when the British Government asked it to make a financial contribution to the expenses of the War. They expressed their inability to increase either the salt tax or income tax on the ground that the price of the former was already high and the later would alienate the landlords. In fact Chelmsford insisted that the Government would not be able to raise money through any means except increase in cotton tariff duty. He also argued that 'in present circumstances', the increase would hit Japan

³¹Telegram from S S to G G, 26 Jan 1916, *Ibid*

³²ILCP, 1 Mar 1916, pp 170-1

³³G G in C to S S, 24 Nov 1916, Home (Poll) No 17, para 23, *Chelmsford Papers*, v 51, pp 314-5

more than Lancashire.³⁴ Finally, the Government of India was permitted to raise the cotton import duty from three-and-a-half per cent to seven-and-a-half per cent while excise duty was left unaltered. The measure was received with enthusiastic approval. However, the Indian members did not fail to point out that the revised rate would 'unquestionably' afford protection to Indian industry and that, as soon as the circumstances permitted, the countervailing excise duty on cotton should also be abolished.³⁵ A strong agitation developed in England. The question was raised in the British Parliament also. But Austen Chamberlain and Lord Islington enthusiastically supported the Government of India.³⁶

The question of Imperial Preference was also taken up in the Legislature. It came up in 1913 when a resolution was moved by Chitnavis recommending the desirability, in view of the loss of opium revenue, of considering financial measures for strengthening the resources of the Government with special reference to the possibility of increasing the revenue under a system of preferential tariffs with the United Kingdom and the colonies.³⁷ Chitnavis pointed out that since, in view of the attitude of Britain, protection was out of question, he had brought forward the question in that form. The whole discussion was dominated by a vigorous protectionist flavour. Commenting on this resolution, even *The Times* noted: 'Preference, if we are not mistaken, has played no part at all in the proceedings of the Council.'³⁸

The exigencies of the War impelled Great Britain towards protection and Imperial Preference. The question came up before the Indian Legislature in connexion with trade in raw hides and skins. Before the War, Indian hides and skins were

³⁴Chelmsford to Chamberlain, 7 Jan. 1917, Chamberlain Papers, AC 22/31.

³⁵See speech by Dadabhoy, ILCP., 7 Mar. 1911, p. 531.

³⁶See *Debates on Indian Affairs (House of Lords)*, 14 Mar. 1917, cols. 54-104 and *Debates on Indian Affairs (House of Commons)*, Questions and Answers on 5 Mar. 1917, See also Montagu to Crewe, 10 Mar. 1917, Crewe Papers, 6/34.

³⁷ILCP., 13 Mar. 1913, pp. 453-70.

³⁸See Cutting from *The Times*, 17 Apl. 1913, in Crewe Papers (1/8).

exported in a raw state for manufacture in foreign countries. During the War time, the work of converting them into leather was done to a great extent in India through British or Indian firms. After the War ended, the question of protecting tanning industry excited a good deal of interest in the British Parliament.³⁹ Accordingly, in September 1919, a bill was introduced in the Legislature to impose an export duty of fifteen per cent on raw hides and skins with a rebate of ten per cent (that is at the rate of five per cent) on those exported to British or to other parts of the Empire.⁴⁰ A full rebate was not given because it would have 'justly exposed' the Government of India to criticism.⁴¹ In the Legislature, the Government of India stated two objects. In the first place, the officials pointed out that the revised duty would protect the Indian tanning industry which had been fostered by War time requirements. Secondly, they argued that 'it is in the interests of India that the hides and skins produced in India should be tanned in India, if possible or within the British Empire, if it is not possible to tan them in India'.⁴² In other words, the aim was to ensure that raw hides and skins, instead of being exported to other countries, should be tanned either in India or in other parts of the British Empire.

Indian members applauded the first object while the second one evoked much criticism. They advanced cogent arguments in support of their views. They objected to rebate being given to hides and skins exported to other parts of the British Empire when India was not getting any preferential treatment from them. They pointed out that the duty of five per cent could hardly afford any protection. Sharma, in fact, moved two amendments proposing that the margin of protection should be increased either by reducing the extent of preference or by

³⁹A series of questions were put to the Secretary of State on 10th and 17th July, 1918. See *Hansard*, 108 H C Deb., 5 ser., cols 281-2 and 1013-4 respectively.

⁴⁰Statement of Objects and Reasons, 6 Sep 1919, Papers Relating to Act XIX of 1919.

⁴¹G G in C to S S, Commerce & Industry No 19, 9 July 1919, para 5. *Ibid*.

⁴²Speech by Sir George Barnes, ILCP 17 Sep 1919, p. 259.

increasing the duty from fifteen per cent to twenty per cent. They were opposed to excluding even Great Britain. Sharma, for example, said:

We shall have to be protected against everybody if we adopt a protectionist policy. We shall not be hitting any one in the United Kingdom at present; we will be encouraging Indian trade, and every country can take hides and skins from us equally by paying the 15 per cent export duty.⁴³

The contention that the proposed duty, by providing an outlet for the country's surplus hides, would serve the interests of India failed to make any impact because in the beginning Sir George Barnes, the Commerce and Industry Member, had himself stated that the Indians had no cause to be afraid of competition because, in this respect, India enjoyed almost a monopoly. Instead of facilitating the export of hides and skins to various parts of the Empire, the Indian members wanted the Government to take steps to encourage the setting up of tanneries in India. In this respect, Malaviya put the case in a nutshell:

We produce a large quantity of hides and skins, but having all those hides and skins available to us, having all the tanning barks available to us, having most of the chemicals available or procurable, if I may say so, in this country, having an unlimited supply of labour, having a large market at home and having the whole world to export our manufactures to, it seems a tragedy that the Government of India with its mighty resources for starting a large tannery in this country, should allow the bulk of the hides of the country to go out, and should allow a rebate to certain countries which will import them.⁴⁴

Though the Indian point of view was not accepted, the debate reflected the new emphasis on the development of in-

⁴³Speech by Sharma, 17 Sep. 1919, *Ibid.*, p. 260.

⁴⁴Speech by Malaviya, 11 Sep. 1919, *Ibid.*, p. 101.

dustries, a clear line of argument and a practically unanimous feeling in favour of industrial development by protection and other methods. When the Government of India showed unwillingness to concede their demands, the Members demanded for India 'fiscal freedom to adopt its own policy' ⁴⁵

Thus, on the issue of tariff duties, the non official Members were unanimous on all issues except in some very special cases. Both inside and outside the Legislature, the policy was supported not just by industrialists who stood to gain by it, but by all vocal Indians, not because they were pro industrialists but because they felt that the standard of living could improve only if production in the country could increase. In fact, the middle class was likely to be the most adversely affected by increase in customs duty because it was likely to raise the price of consumer goods. The authors of the *Report of the Fiscal Commission* did indeed point out

The middle classes have a certain standard of living which entails expenditure on imported goods. Their cost of living would undoubtedly rise. The possibilities of equivalent, or at any rate timely, expansion in their incomes, however, are limited. So far as we have been able to judge from those witnesses who have given evidence before us, the middle classes are prepared to merge what might be regarded as their own immediate interests in the wider interests of the country ⁴⁶

A study of Government's tariff policy makes it very clear that it was not only in respect of cotton duties, which had of course become an emblem of Indian's subjection, that India's interests were sacrificed to British commercial interests but the tariff policy as a whole was guided by the same consideration.

⁴⁵Speech by Sharma 17 Sep 1919, *Ibid*, p 258

⁴⁶*Report of the Indian Fiscal Commission*, 1922, para 81. See also para 56

Loans to Industrialists

Indian members argued that capital was shy of investment in industrial ventures because of uncertainty of their success. They wanted the state to play a positive role in respect of making capital available.

In February 1915 Raja Kushalpal Singh, the landholders' representative from the United Provinces, moved a resolution recommending that 'in view of the cessation of imports from hostile countries, the Government be pleased to invite the opinions of local Governments and administration as to the desirability of promoting industrial enterprise by loans on the lines of *takavi* advances.'⁴⁷ Moving the resolution he amplified that what he in fact wanted was that the state should adopt a definite policy of advancing loans on favourable terms. But, since such a proposal was not likely to be accepted, he had merely asked for inviting the opinions on the desirability of such a step. He pointed out that the chief impediment to industrial development in India was non-availability of cheap capital and that the history of failure of promising Indian concerns was replete with instances of deadlock for want of capital. He recommended advances on the lines of *takavi* loans because these loans were given after a careful on the spot inquiry of the applicant's financial strength and on the security of land. He argued that there was nothing to prevent a similar course being followed in the case of manufacturing industries. He also said that appeals to the theories of free trade, non-interference and free enterprise in justification of official detachment were of no value at a time when the British Government was subsidizing the manufacture of synthetic dyes.

Speaking on the resolution, the leading businessman of Bombay, Rahimtoola, said that the problem in India was not lack of availability of capital because the Government was always able to raise large loans at comparatively low rates of interest. The real problem was that this capital was shy of investment in new industries which were rarely successful because of unfair competition which they had to face. If prospects

⁴⁷ILCP, 24 Feb. 1915, pp. 279-82.

of success of industrial enterprises improved, capital would not remain shy. The Government should therefore extend a helping hand by advancing loans on easy terms. The members also alluded to the favourable political results of adopting this course. They said that if poverty was removed dacoities etc would cease because their root cause was not political but economic. Dadabhoy for example pointed out that the adoption of the resolution

would knock at the bottom of the complains that a rigid and unsympathetic economic policy was pursued by the Government with a view to help the British manufacturer and will, by increasing the resources of the people by organizing the village industries on a sound basis and strengthening them, and by finding new careers for enterprising educated Indians, ensure greater contentment, greater peace and greater devotion and loyalty in the country.⁴⁸

This resolution was supported by all the ten non official members who spoke on the resolution including Abbot, the expert on commercial matters. W H Clarke, who replied on behalf of the Government, gave unconvincing answer. He argued that there could be no comparison with Britain because the financial condition of the British Government was much stronger and that the Government of India could not lock up large sums in the initiation of industrial enterprises.⁴⁹ Finally, a much diluted and modified version of the resolution was accepted under which the Government agreed to afford such assistance and co operation as might be practicable in the promotion of industrial enterprises in India.

It was basically the contradiction between what the official members believed in and what they had to plead for which explains the ineptness of their performance. This dilemma of officials can be seen very clearly during consultations on Rahimtoola's notice regarding a resolution recommending the appointment of a committee of official and non official members

⁴⁸*Ibid*, p 285

⁴⁹*Ibid*, pp 298 300

to consider and report what measures should be taken up for the growth and development of industries. He gave notices of similar resolutions for three consecutive years. But in 1914 and 1915 this resolution was not admitted. The Government of India had no objection to 'the academic discussion of question' that is, as to discussion whether protection was necessary for the growth and promotion of industries in India. But the officials knew that the debate would be used by Indian members 'as a peg for the doctrines of protection and fiscal autonomy',⁵⁰ and that by 'innuendo or explicitly' the British Government would be accused of imposing free trade on India for selfish reasons.⁵¹ The officials were also conscious of their weak position in the debate. W.H. Clarke indeed noted: 'I should be extremely sorry to have to speak in the debate, if speaking involved telling the Council what we have done and trying to persuade them that we are still a free trade Government.'⁵²

When Rahimtoola gave notice of the resolution once again in 1916, Hardinge decided to admit it. He had already made a pointed reference to the desirability of providing assistance to Indian industries in his Memorandum on questions likely to arise at the end of the War. He pointed out that the debate would 'educate public opinion at home as to the views of the Government of India on economic questions, and especially the necessity for conceding greater liberty and independence to the Government of India in fiscal policy.' He also argued that the whole question of fiscal policy was likely to be raised in the debates on the budget and, therefore, it was 'better to allow Sir Ibrahim Rahimtoola and others to throw off a little steam' than to rebuff them by a refusal.⁵³

The resolution was discussed on 21 March 1916. Rahimtoola wanted the Commission to go into questions of fiscal autonomy for the Government of India and protection to industries besides taking up the issues connected with subsidies, expert

⁵⁰Note by C.E. Low, 20 Oct. 1915, Commerce and Industries (Industries) Deposit. Progs., July 1916, No 16, F.No. 150/1.

⁵¹Note by Clark, 25 Feb. 1915, Leg. B Progs., Apl. 1915, 182-5.

⁵²Note by Clark, 4 Nov. 1915, Commerce and Industries (Industries) Deposit. Progs., July 1916, No. 16, File No. 150/1.

⁵³Note by Hardinge, 10 Nov. 1915, Leg. A Progs., Apl. 1916, 61-4.

advice, skilled labour, railways and banking facilities. The resolution was accepted on behalf of the Government. But its terms of reference were confined to questions relating to new openings for industrial capital and direct encouragement to industries by the Government by suggesting ways of providing technical advice, financial assistance, etc. It was pointed out that the fiscal policy of the Government was inseparable from the question of constitutional relationship between the Secretary of State and the Government of India. The Indian members welcome the appointment of the Commission though limitations on the terms of reference caused disappointment.⁵⁴ The Commission came to the conclusion that the Government must play an active part in the industrial development of the country.⁵⁵ The recommendations of the Commission were accepted in principle by the Government of India though these were never fully implemented.⁵⁶

In the sphere of banking facilities, also, Indian members wanted the State to extend its patronizing hand and help in the economic development of the country. They asked many questions on this subject and moved three resolutions during this ten year period. In 1913 and 1914 there were numerous bank failures in various parts of the country which shook public confidence. In February 1914 Chitnavis moved a resolution recommending the advisability of appointing a committee to enquire into the causes of bank failures and to report what, if any, measures were desirable to regulate and control banks and the banking system.⁵⁷ This resolution was withdrawn after a sympathetic reply from the Government. Two resolutions were moved by Sharma in 1919, one on the financial statement suggesting the appointment of a committee to recommend the measures needed for organizing and developing the banking system in the country and the other recommending the establishment of a State Bank in India. In their speeches, the non official members demanded that the State should exercise strict control

⁵⁴ILCP, 21 Mar 1917, pp 437-72.

⁵⁵Report of Industrial Commission, 1918, para 83

⁵⁶Vera Ansley, *The Economic Development of India*, Edn 4 (London, 1952, p 219

⁵⁷JLCP, 25 Feb 1914, pp 552-66

over the affairs of banks.⁵⁸ Three factors determined their approach. In the first place, in India capital was shy and only some regulation by the State could generate confidence. Secondly they argued that India, like Japan, should extend her system of banking under State patronage.⁵⁹ The most important reason, however, was that at a time when 'modern' banking facilities in India were monopolized by Europeans, Indians could hope to get better treatment only from State banking system. This question came to the fore during the debate on the resolution asking for the establishment of a State Bank in India which was moved in anticipation of the move to amalgamate the three Presidency Banks and to give them additional facilities. Sharma pointed out:

The fear of the Indians is when the three banks are amalgamated that the management would be almost exclusively European in the Central Bank and in the absence of rigorous control by the State, the conditions may be worse in future than at present.⁶⁰

Railways

Railways were built in India frankly with the aims of widening the market for British goods, facilitating the flow of goods from India to other places and of helping in governing the country. Not only were the motives behind the development of railways in India peculiar, the manner in which they were operated was also unique. The Government of India owned 25,125 miles of trunk lines in India out of which it managed approximately 6,800 miles. The balance 18,325 miles were leased to companies. These companies operated on commercial principles. Public welfare could not be their goal. In matters relating to construction, management, laying down railway rates and providing facilities to passengers etc. the Indian leaders wanted

⁵⁸Speech by Chitnavis, *Ibid.*, p. 555, and speech by Sharma, 23 Sep. 1919, *Ibid.*, p. 433.

⁵⁹See speeches of Chitnavis and Malaviya ILCP., 25 Feb. 1914 and 23 Sep. 1919, respectively.

⁶⁰Speech by Sharma, 23 Sep. 1919, *Ibid.*, p. 444.

the Government policies to be geared to the needs of Indian people and of Indian industries and not to British vested interests

It was with this supreme aim that they raised issues relating to railway policy year after year. On 9 and 17 September 1913, as many as twenty four questions were put on the subject.⁶¹ The Viceroy himself admitted that the questions were of 'a most searching character'.⁶² In this context they raised four categories of issues: reduction of expenditure on railways, the adoption of such policies as would facilitate travel by ordinary people, appointment of Indians to senior positions in the management of railways, and policies relating to freight rates and laying of railway lines to be framed in such a manner as to help industrial expansion. All these they felt, could be accomplished if state controlled these activities rather than British companies. They wanted the Government to act upon the principle that railways were made for India and not India for the railways.⁶³

On the question of increase of expenditure on railways, there was a clear divergence of opinion between the British mercantile community in India and Britain and Indian nationalist leaders. This was only natural because expansion of railways only benefitted non Indian firms. Moreover, there was a feeling that money was assigned to railways at the expense of other essential items like irrigation, sanitation and education. The *Mahratta* of 9 March 1911, for example, commented that the railways and army had nearly eighty per cent of the total estimated revenue of eighty million pounds and that 'the essentials of progress such as education, sanitation, industries, agriculture and the like ..are kept on starvation allowance and are accommodated within twenty per cent left compassionately to their lot'.⁶⁴ During the very first session of the 'reformed' Legislature Gokhale moved a resolution recommending that the working expenses of railways should be reduced by one crore

⁶¹ILCP, 9 and 17 September 1913. One question by Rahimtoola was divided into 29 sub-sections.

⁶²Harding to Crewe, 2 Oct. 1913, Crewe Papers (1/9).

⁶³A remark by G. S. Clarke cited by Thackersey, ILCP, 1 Mar 1912, p. 341.

⁶⁴*Mahratta*, 9 Mar 1911.

rupees.⁶⁵ This resolution was supported by all Indian members except the two nominated members from Punjab and Maung Bah Too. Though this resolution was rejected by using official votes, still in the next budget proposals railway expenses were cut down considerably. In 1911 again Gokhale moved a similar resolution asking for reduction in working expenses of railways by 50 lakh rupees. It is significant that this time many Indian members—Chitnavis, Dadabhoy, Thackersey and Sardar Pratap Singh—did not support him. Their chief argument was that at a time when the Government was showing inclination to act on its own initiative there was no justification for such a demand. In 1918 and 1919 Malaviya and Sharma moved resolutions asking for reduction in the budget allotment for the construction of railways. Their main objection, as Malaviya put it, was that they were not sure that the amount allotted in the budget would be 'usefully', reasonably and properly spent.⁶⁶

Indian members believed that, because of the discriminatory railway rates fixed by British companies, the railways rather than helping in the industrialization of the country, impeded this process. The Government fixed a maximum and minimum rate. These rates were arbitrary. Generally railways linking coastal areas were cheaper than lines linking up the interiors. Citing a case, V.D. Thackersay pointed out that the freight rate, on glassware from Ambala to Allahabad, which was 513 miles, was Rs. 2-4-5 per *maund* whereas the freight rate on glassware from Howra to Allahabad, which was also 513 miles, was Rs. 1-9-8 per *maund*. This placed Indian manufactures who mostly used the inland route, at a disadvantage while the foreign companies, who mostly used the latter route, enjoyed the advantage of lower rates in spite of the fact that almost ninety per cent of the capital invested in railways was either invested or guaranteed by the state.⁶⁷ They cited other examples as well. Oil seeds which were mainly exported by British companies were carried at low rates while oil manufactured in India was carried at higher rates. The Indian industry was thus penalized while the foreign companies got the corresponding advantage.

⁶⁵ILCP, 9 Mar 1910, p. 452.

⁶⁶*Ibid.*, 10 Mar 1919, pp. 817-20.

⁶⁷Speech by Thackersay, *Ibid.*, 1 Mar. 1912, p. 358.

Rahimtoola rightly pointed out that if seeds could be carried at low rates, oil pressed out of those seeds should also be carried at equally low rates to encourage local industries ⁶⁸

Indian members, however, looked upon the private management of railways as the cause of all ills afflicting its working, construction and policies. In his 1910 resolution Gokhale had expressed himself in favour of state management and, thereafter, the demand was voiced in each session of the Legislature. The *non official members denounced the then existing system under which the state owned 5/6 of the railways and managed only 1/6 of it*. These same members had shown a distrust of increasing the powers of the Executive and also a disinclination to vote money for laying railways but in this context they advocated strengthening the hands of the Government. They accepted that British rule in India was likely to continue for quite some time and under these conditions, state-management was the only practicable alternative available to them. Rahimtoola did say in the Legislature that this demand on their part should be regarded as 'a high complement' by the officials ⁶⁹. In 1912 a resolution was moved by Thackersay recommending that a committee composed of official and non official members be appointed to inquire into the questions relating to fixing of goods tariffs, construction of new lines and the desirability of associating the members of the Indian commercial community with the deliberations of the Railway Board ⁷⁰. This resolution was rejected after a lengthy debate and a division in which all the Indian non-official members voted unanimously in favour of the motion. Two years later Vijayaraghavachariar moved a resolution recommending the appointment of a commission to investigate the causes and attending circumstances of strikes on the Madras and Southern Maratha Railways and make recommendations on the advantages and disadvantages of the construction and management of the railways by the state ⁷¹. The next year Rahimtoola moved another resolution recommending

⁷⁰*Ibid*, 1 Mar 1912

⁷¹*Ibid*, 24 Feb 1914, p 481

the desirability of adopting the policy of state management of railways. The resolution was supported by all the non-official members except Abbot, the expert on commercial matters, the representatives of the two chambers of commerce and Setalvad, the non-official representative from Bombay. Setalvad's contention that private management was more progressive and economical was answered by Banerjea with the popular saying that 'the proof of pudding is in the eating.' Reid, the representative of the Bombay Chamber of Commerce, described the debate as academic. This created some bitterness and led Malaviya to clarify that he could not think of any subject having more practical bearing than the one under discussion.⁷²

The contract of one of the railway companies, the East India Railway Company, was to expire in 1919. This was the earliest and the most important of the guaranteed companies and, to quote from the Acworth Committee Report, it belonged 'lock, stock and barrel to the Government of India.'⁷³ The Indian members began to press for non-renewal of the contract of this company. In September 1917 Rahimtoola moved a resolution recommending that the Government should give the required notice to the Company. In March 1918, in the absence of Rahimtoola who had since been appointed to the Bombay Executive Council, B.N. Sharma moved another resolution asking the state to take over the management of this Company. The resolution was withdrawn after the Government of India agreed to refer the matter to the Secretary of State. In 1921, a committee was indeed appointed under the chairmanship of Sir William Acworth which unanimously recommended that the British domiciled guaranteed companies should cease to exist on the termination of their contracts.⁷⁴ The East India Company was taken over in 1925.

Why did the non-official members ask for state management of railways so persistently? Basically they argued that the interests of the people who used the railways and the interests of the State which owned these, were different from those of the intermediaries, the managers of companies, who were interested

⁷² *Ibid.*, p. 586.

⁷³ *East India Railway Committee Report 1922*, para 196.

⁷⁴ *Ibid.*, para 207.

only in profits and not in the welfare of the country or its people⁷⁵ They believed that the Government of India would be less amenable to private and selfish interests than private companies They said that since many directors and large shareholders of the railway companies were Members of the British Parliament, they could have decisions which suited them irrespective of their effect on Indians They also pointed out that the policy of fixing freight rates was such that rather than helping in the industrialization process, it tended to retard it⁷⁶ The companies also impeded the plans for building railways in Indian States and thus forced the producers to send goods by more circuitous routes They also wanted increased facilities for passengers travelling in third class carriages which state management would ensure The system of management by the companies was not even economical In 1918, pleading for the takeover of the East India Railway Company, Sharma amplified that by taking over the railways, the State would not lose but would save nineteen lakhs of rupees every year because the interest charges and share of profits which the Government was paying to the company amounted to 63 lakhs of rupees, while if the railways was taken over, the Government would have to pay an annual sum of only 44 lakhs till 1953⁷⁷

As in the case of tariff duties, the Government of India found itself at a loss to provide convincing answers to the arguments put forward by Indian members Describing the debate as a struggle between the old established vested interests of the companies and 'modern Indian thought and interest in public affairs', Hardinge acknowledged that it was a difficult matter to deal with⁷⁸ In connection with Rahimtoola's resolution Hardinge wrote to Lord Crewe

The raising of these questions will, I am afraid, be very embarrassing both to yourself and myself, because they are based on reasonable grounds, viz, why, when India has supplied practically all the capital cost of the lines worked

⁷⁵Speech by Malaviya, ILCP, 29 Feb 1914, pp 490-2

⁷⁶Speech by Vijnavaghavachariar, pp 481-7

⁷⁷ILCP, 18 Mar 1918, p 1083

⁷⁸Hardinge to Crewe 2 Oct 1913, Crewe Paper, (1/9)

by companies, the actual management and working should be left to those holding but a very small share of their cost.⁷⁹

The official arguments were very convincingly refuted by Indian members in the Legislative Chamber and by the Indian press outside it.

In 1912 replying to Thackersay's resolution regarding uniform railway rates T.R. Wynne, the President of the Railway Board, contended that the problem of fixing uniform and reasonable rates was an extremely difficult task, not accomplished to perfection even in Germany and America. Referring to this argument *The Mahratta* commented:

The freight charges in Germany are not determined by negotiation or by influence, and the goods of the foreigners which compete with the German goods are not carried at a lower, but at a higher rate than the native produce. The German state monopolist considers himself as the servant of the nation and the trustee of its interests and not the nation as the milch cow of the railway department.⁸⁰

The paper thus focussed on the real issues at stake which the Government officials tried to sidetrack.

In case of Vijiaraghavachariar's resolution asking for the appointment of a committee to investigate the causes and circumstances of the strike in the Madras and Southern Mahratta railways and to report on the relative advantages and disadvantages of state management, W.H. Clark did not go into the real issue but concentrated on the technical points. First, that a single commission could not go into these two questions and second, that this was a question on which the Government of India was subordinate to the Secretary of State who is unlikely to allow it.⁸¹ The latter argument focussed on the disabilities imposed on them by the existence of a foreign government and they did not hesitate to express their disquietitude at this

⁷⁹ *Ibid.*

⁸⁰ *The Mahratta*, 12 June 1913.

⁸¹ ILCP, 24 Feb 1914, pp. 498-505.

situation Rahimtoola voiced this feeling 'I venture to point out that the time has come when we desire that this excuse which is constantly brought forward of the domination of the Secretary of State should have lesser value, in view of the fact that these Councils are now enlarged and their scope is widened'⁸² In the debate on Rahimtoola's 'harmless resolution, in which he asked the Government to consider the desirability of a future policy of state management, T R Wynne argued that the Government would not be able to bear the entire burden of State management all at one time and that it would be difficult to obtain necessary capital. As to the first objection Rahimtoola rightly pointed out that the contracts of various companies would expire at different intervals between 1919 and 1950 so that the Government would be taking over only gradually. As to the loan he pointed out that all the debentures issued by the railways were in any case guaranteed by the Government and, therefore, the companies acted only as dispensable middle men for the purpose of raising loans.⁸³

Still more preposterous arguments were put forward in 1918 in reply to Malaviya's resolution recommending a cut in expenditure on railways, the sum being devoted instead to sanitation and education. The official objections to this recommendation were briefly these that expenditure on railways was reproductive, that it was beneficial for the development of the country and that further money allotted to education and sanitation would probably remain unspent. Commenting on these arguments, *The Mahratta* rightly clarified that if the railways were reproductive then they should be provided not out of current revenue but out of special loans, that irrigation which gave more than four per cent profit was decidedly more beneficial and that education and sanitation were forced to desist from necessary improvements for want of funds, not for want of capacity to spend.⁸⁴ The rejection of resolution on these flimsy grounds and frequent references of the Government of India to their helplessness because of subordination to the 'Home

⁸²*Ibid*, p. 505

⁸³*Ibid*, 24 Mar 1915, pp. 592-5

⁸⁴*The Mahratta*, 15 Mar 1918

Government' could only strengthen and popularize the need for India to become an independent nation.

Legislation Affecting Industry and Commerce

The development of industries in India had given rise to complications and, therefore, during Lord Hardinge's viceroyalty, great attention was paid to industrial and commercial legislation. The avowed object of passing these measures, as S.A. Imam, the Law Member, stated with reference to the Companies Bill, was:

We could not do better than adopt the provision of the English Act as well as its arrangement and wording in so far as we can. Uniformity of this law in different parts of the Empire will be of incalculable benefit to the development of commercial enterprise within the Empire.⁸⁵

But the Government of India knew that in this respect it could not afford to clash with British interest in Britain and India. Therefore, while trying to bring the Indian Law into conformity with British legislation, the Government added an important qualifying clause, namely, 'as far as possible' and used the consequent discretion thus acquired for accommodating British interests. The argument they used was that the case of India was exceptional and, therefore, everything suitable to England could not suit India. It was on this argument that the Indian members joined issue with the officials and very politely referred to the real motives of the Government. On the Factories Bill Dadabhoy, for example, said:

I fully appreciate the humanitarian motives that have inspired the Bill, and no right-thinking citizen will impute ungenerous motives to Government; but it must be admitted that the Indian Government, which has imposed and maintains a countervailing excise duty on indigenous cotton goods to propitiate Manchester, cannot reasonably hope to

⁸⁵Note by S. A. Imam, 12 July 1911, Leg. A Progs., Apl. 1913, 373-445

avoid some measure of hostile and unpleasant criticism of its action, and of misinterpretation of its solicitude for the well being of the labouring classes ⁸⁶

The debates highlighted one fact and that was that legislation was enacted in British, not Indian, interests and that any step to protect Indian interests, if and when taken, was opposed by vested interests in Britain and India

Indian Patents and Designs Act (1911)

The first important measure introduced in the Legislature in this connection was the Patents and Designs Bill. It was framed on the lines of the British Inventions and Designs Act of 1907 ⁸⁷ But, in the Indian Bill, Section 27 of the English Act, which had provided for the reservation of a patented article on the ground that it was manufactured exclusively or mainly outside the United Kingdom, was not incorporated. The ostensible reason, as stated by Robertson, the Member in charge of the Commerce and Industry Department, was 'Our principal authorities are, however, agreed that the country is not ripe for a measure of this nature. This being the case, we do not propose to make any change in the direction indicated' ⁸⁸ The real object, however, was that the incorporation of this clause would have excluded British firms from its purview. This omission was criticized by the non official members. They demanded that Indian industries, too, must be protected from competition from abroad. W C Madge, for example said

But as a matter of fact those of us who read trade quotations will find that a great many of the articles manufactured and brought from abroad could be produced in this country if some better protection were afforded in this country .. I have found—I have enquired amongst those who have more interest in the matter than I myself, and they have found—that our industries are not sufficiently

⁸⁶ILCP, 3, Jan 1911, p 86

⁸⁷Statement of Objects and Reasons 21 Mar 1910, *Gazette of India*, 1910 part V

⁸⁸Speech by Robertson, 3 Jan 1911, ILCP, p 102

protected and that a good deal is brought from abroad that might be made here, and that one of the avenues from which this evil creeps upon the country is the Patent Law.⁸⁹

When the bill came before the select Committee, Madge, though not a member of the committee, submitted a draft clause for its consideration.⁹⁰ It was redrafted as clause 23 of the bill. In the Report it was pointed out:

In deference to a generally expressed desire, we have, in this new clause, adopted the principle of section 27 of the statute under which a patent is liable to revocation if it is not worked in the country.⁹¹

However, certain restrictions were inserted to ensure that the patent should not be revoked unless there was a reasonable prospect of its being worked in India. This change satisfied the non-official members.⁹² It is significant that the change was brought about in spite of the fact that no such hope was held out at the time the bill was referred to the select committee and that the Secretary of State was not consulted. The reason given was that the Legislative Council had 'full power to enact what it thinks fit subject, of course, to eventual disallowance'.⁹³

The Factories Act (1911)

In India factory legislation to protect Indian labour from exploitation was undertaken before any trace of labour movement could be seen. It applied mainly to workers in cotton mills. Its real objective was not any concern for labourers but apprehensions of competition from Indian factories in

⁸⁹Speech by Madge, *Ibid.*, p. 103.

⁹⁰Papers relating to Act 11 of 1911, No. 94.

⁹¹Report of the Select Committee, 23 Jan. 1911, Leg. A Progs., Mar. 1911, 14-52.

⁹²ILCP., 1 Mar. 1911, pp. 253-4.

⁹³Robertson to Macpherson, 17 Jan. 1911, Papers relating to Act II of 1911.

the minds of British manufacturers. For this reason, the Indian members looked upon the Factories Bill as a measure designed to obstruct the growth of the Indian cotton industry.

The bill, that was introduced in March 1911, was framed after lengthy deliberations. In 1906, a commission was appointed under Sir Hamilton Freer Smith which recommended that the hours of work of adult labour should be restricted. In 1907-8, another commission was appointed which was described in the Legislative Council as 'the most representative commission ever appointed'.⁹⁴ This commission recommended that there should be no restriction on the hours of work of adults, but the hours of work of workers between the ages of fourteen and seventeen should be restricted to twelve. In deference to demands from British interests the Government decided to accept the recommendations of the earlier commission. An acrimonious debate followed in the Legislature and in the press.⁹⁵ The reason behind this opposition was stated clearly by Dadabhoy: '... people unfortunately suspect that the anxiety for the protection of Lancashire interests determines and colours the policy of the Bill'.⁹⁶ All the seven non-official members of the select committee signed its Report subject to their minutes of Dissent. But their opposition failed to achieve anything. Robertson told them 'This is a subject on which we must agree to differ'.⁹⁷ The Government had made up its mind and did not yield on this point. Only some minor amendments on matters of detail were accepted.

The Life Assurance Companies Acts (1912)

At that time many mushroom life assurance and provident fund societies of doubtful stability were coming up. To bring their financial transactions under legal control, two Acts were

⁹⁴ Speech by Thackersay, ILCP, 3 Jan 1911, p. 96.

⁹⁵ See Cuttings from Newspapers in Papers Act of XII of 1911,

v. 1

⁹⁶ ILCP, 3 Jan 1911, p. 86.

⁹⁷ Speech by Robertson, 31 Jan 1911, *Ibid*, p. 218.

passed in 1912.⁹⁸ The Life Assurance Companies Bill, introduced in 1911, closely followed the provisions of the British Assurance Companies Act of 1909 (9 Edw. 7, C. 49) in so far as the latter related to companies undertaking life assurance. But 'in view of the special conditions prevailing in India', the framers of the bill considered it necessary to depart from the provisions of the English Act in certain cases. The Government pointed out that '... in India the public is more helpless and uninstructed than in U.K. and so the companies may deceive people'.⁹⁹ Section 34 of the bill, therefore, authorized the Governor-General to apply to a court for winding up the companies while under the British Act this could be done only by persons authorized to send petitions.

The departure, which placed additional powers in the hands of the Government of India, was not welcomed in Britain and the British Board of Trade approached the Secretary of State. Under their pressure, the latter asked the Government of India to exempt the British companies and it agreed. To obviate the 'inconvenient' question of favouring British companies at the expense of the Indian or foreign companies,¹⁰⁰ use of any word indicative of the nationality of the exempted company was avoided.¹⁰¹ The new clause 34, therefore, extended exemption to companies operating from Britain, and also to companies operating from other countries and colonies if the Governor General was satisfied that in those countries the laws were as stringent as those of the United Kingdom.¹⁰²

This was opposed by the non-official members both in the select committee and in the Legislature. Even C.L. Eyffee, the expert appointed for the bill, and Cecil Graham, the representative of the Bengal Chamber of Commerce, opposed this clause. Subba Rao asked categorically: 'Why does the British Govern-

⁹⁸Act Nos. V and VI of 1912.

⁹⁹G.G. in C. to S.S., 3 Nov. 1910, Commerce and Trade No. 56 of 1910, para 2, Leg. A Progs., Mar. 1912, 218-52.

¹⁰⁰S.S. to G.G. in C. 24 Aug. 1911, *Ibid.*

¹⁰¹Note by C.S. Irwin, 3 Sep. 1911, *Ibid.*

¹⁰²Report of the Select Committee, 26 Feb. 1912, *Gazette of India*, 1912, part V.

ment adopt this generous policy .. For that matter why does not any other country in the world adopt that generous attitude?¹⁰³ There was a heated discussion on his amendment asking for omission of the new clause 34 But on behalf of the Government, Clark said 'This clause is purely permissive Surely, too, it is a reasonable proposal I am afraid I can not agree to drop this clause 34'¹⁰⁴ Finally, after a heated debate, the decision was postponed to the next meeting and at that meeting the Government agreed to omit the clause¹⁰⁵ Thus, in spite of the public statement of a Government official in the Legislature, the Government yielded to the pressure in India

The Companies Acts

Since 1882, when the Indian Companies Act had been passed, the number of joint stock companies had increased three times Moreover, the British Companies Act on which the Indian Act was modelled, had been revised in 1908 The revision of the Indian Companies Act was, therefore, long overdue The Government of India had been very slack over the question for which it had been seriously criticized in both the English and the Indian press¹⁰⁶ On 22 March 1912, a bill was introduced in the Indian Legislature with a view to protect the interests of the shareholders This bill followed its English counterpart with 'almost slavish exactitude'¹⁰⁷ But the Government proposed to depart from the English bill by providing for the imposition of certain restrictions on private companies whether incorporated in India or outside so as to guard against the abuses creeping in through apathy or lack of initiative on the part of the shareholders These clauses providing for State control came to be known as 'stringent clauses' and were not welcomed by private entrepreneurs These were criticized by the representatives of two European Chambers of

¹⁰³Speech by Subba Rao, 15 Mar 1912, ILCP, pp 514-5

¹⁰⁴*Ibid*, p 411

¹⁰⁵Speech by Clark, 18 Mar 1912, *Ibid*, pp 531-2

¹⁰⁶Wilson to Hardinge 9 Nov 1912, Wilson Papers (5)

¹⁰⁷ILCP, 22 Mar 1912 pp 658-9

Commerce and by Sitanath Ray who formally represented the non-official member of the Bengal Legislative Council but was also a businessman and an important member of the Indian Chamber of Commerce. They wanted to submit to as few restrictions as possible. But their criticism remained by and large futile and the bill became an Act on 18 March 1913.¹⁰⁸

At the time the Companies Bill was introduced, certain matters relating to the internal management of companies like managing agents and their relationship to the companies they served, were not taken into consideration. But later it was felt that a Companies Bill which did not deal with the question of managing agents was 'on a par with *'Hamlet without the Prince of Denmark'*'.¹⁰⁹ The managing agency system was a peculiar feature of Indian industrial organization. It was started by the British and was adopted by the Indians too. In order to fill this loophole, a bill was introduced in the next session mainly with the object of making the directors of a company independent of the managing agents. In the Statement of Objects and Reasons it was said:

The provisions of this Bill are designed to secure, firstly, that every company should have Directors; secondly, that the majority of the directors of every Company shall be independent of the Managing agents, exception being made in the case of private companies and of companies in which the Managing Agents themselves held a predominant voting power...¹¹⁰

Clause 83(c) of the bill accordingly provided that if the members of the managing agents' firm were also the directors of the company they managed, they should be in a minority on the board of directors.¹¹¹ Government officials pointed out that the

¹⁰⁸*Ibid.*, 18 Mar. 1913, pp. 488-522.

¹⁰⁹Note by Clark, 20 Jan. 1913, C. & I. (Companies) Progs., May 1914, No. 3, File No. 15.

¹¹⁰Statement of Objects and Reasons, 25 Apl. 1913, Gazette of India: 1913, part V.

¹¹¹The Indian Companies (Amendment) Bill, No. 3 of 1913, Papers relating to Act XI of 1914.

measure was clearly desirable though it might not be popular ¹¹² The provincial governments, too, accepted the desirability of such a clause though they suggested certain modifications ¹¹³ In the Legislature, the Member in charge of the bill stated that no one could dispute the reasonableness of the proposal ¹¹⁴ But various chambers of commerce and private entrepreneurs opposed the bill ¹¹⁵ The strongest opposition came from the Bengal Chamber of Commerce As the bill affected the companies incorporated outside India too, the question was raised in the British Parliament and representations were made to the British Board of Trade ¹¹⁶ The Secretary of State duly forwarded these opinions to the Government of India which finally yielded to the pressure and the clause was omitted at the select committee stage ¹¹⁷

The select committee, which was appointed to consider the bill, included five Indian members—Fazulbhoi Currimbhoy, Sitanath Ray, Rahimtoola, Pandit and Charnar Of those, the first two belonged to the firms of managing agents and welcomed this change But the other three criticized these proposals both in the select committee and in the Legislature ¹¹⁸ In fact, the omission of this clause largely defeated the very object with which the bill had been introduced The passage of this bill shows that the efforts of the Government of India were frustrated because of the combined pressure of the European and Indian Chambers of Commerce in India and the vested interests in England In the official circles too, the passage of the bill was

¹¹²Note by Clark, 20 Jan 1913, C & I (Companies) Progs, May 1914, No 3, File No 15

¹¹³See *Letters from Local Governments and Administrations*, *Ibid*

¹¹⁴Speech by Clark, ILCP, 27 Jan 1913, pp. 199

¹¹⁵*Letters from Local Governments and Administrations*, C & I (Companies) Progs, May 1914, No 3 File No 15

¹¹⁶Question in the British Parliament by Sir J D Ross, No 16, 25 June 1913 and letter from the Board of Trade, 11 July 1913, C & I (Companies) Progs, Apr 1914, Nos 16 33, File No 1 of 1913, Progs 17 and 18

¹¹⁷Report of the Select Committee, 23 Feb 1914, Papers relating to Act XI of 1914

¹¹⁸See *Minutes of Dissent to the Report of the Select Committee* 23 Jan 1914 *Gazette of India*, part V, 1914 Also ILCP, 17 Mar 1914

looked upon as 'a first class fiasco' which brought only discredit to Government.¹¹⁹

After the World War started, the work of commercial legislation could not be undertaken because of the preoccupation of the Government with the War effort. The bills, introduced and passed during this period, were designed to deal with War conditions and were generally passed without much opposition.

Concluding Remarks

During the debates on economic questions Indian members showed an obsessive concern for rapid industrialization of the country. On other matters the Government could count on support from at least some members of the Legislature. But on economic questions, specially where the interests of Britain and India seemed to clash they unhesitatingly united against the Government. This was done out of conviction not prejudice. In 1910 when Gokhale asked for reduction in expenditure of railways they supported him unanimously. In 1911 when he again asked for it, many of them did not support him because the Financial Statement already showed a drift in the desired direction. It may also be noted that they envisaged the process of growth on capitalist lines alone, and also that they were not guided by their 'class interest' as opposed to the interests of the masses. They did not oppose increase in the income tax though it touched their pockets. They criticized increase in salt duty. They wanted increase in import duty on cotton and sugar though they were the chief consumers of these articles.

The Indian members wanted the Government of India to assume the role of a nation state and play a vital role in creating favourable conditions for industrial growth by imposing duties on import of manufactured articles, discouraging export of raw material, giving loans and adopting a progressive policy of freight rates and banking facilities. Their demand stemmed less from their foolhardiness in assuming that a foreign state

¹¹⁹Wilson to E. H. Lucas (P.S. to S.S.), 6 Mar. 1913, Wilson Papers (2).

could play the role of a nation state and more from their conviction that in the then existing circumstances that was the only practicable alternative. But all facts and figures, all irrefragable arguments, all irrefutable statistics culled from blue books and complete unanimity of opinion among such heterogeneous groups as represented in the Legislature were disregarded. What made acceptance of Government decisions more painful was the knowledge that they were taken not for the benefit of Indians but of foreigners.

One feature of debates on economic issues was the sympathy of the Government of India with Indian opinion. Even the contemporaries recognized that a struggle in which the people and the Government were seen to be on one side and the Secretary of State supported by Parliament on the other, might create a situation which would be injurious to the connection of India with the Empire.¹²⁰ The debates in the Legislature confirmed the feeling in India that in economic matters Britain had never dealt fairly with India and had used her political power to keep India in a state of economic subjection. Government officials found it difficult to adduce convincing answers or to deliver them forcefully. Wilson looked upon the task of making a speech in reply to Chitnavis's resolution on preferential tariff as the most difficult task set before him in India.¹²¹ The Government did turn down Indian demands by means of its mechanical majority, but such pyrrhic victory was hardly less damaging than defeat.

The debates did not end with their conclusion in the Legislature. The arguments reverberated throughout the country through the medium of the press. The newspapers very adroitly and promptly produced counter arguments to prove that there was a wide gap between the precepts the officials preached and the policies they adopted and that their policies did not stem from doctrinaire prejudices or vanity or wrong economic theories but from incompatibility between the interests of alien rulers and the people they governed. The debates thus

¹²⁰Memorandum by T. Morrison, n.d. Enclosure in Montagu to Crewe, 12 Mar. 1912, Crewe Papers (1/8).

¹²¹Wilson to Lucas 18 Mar. 1913, Wilson Papers, (2).

made it more apparent than ever before that the policies which could lead to rapid industrialization and prosperity of the people could be carried out only by an independent state. *The Mahratta* of 18 March 1917 echoed this feeling in the following leader:

Is fiscal autonomy possible without political autonomy? Even were it possible, can we depend on the Indian Government as it is constituted at present to always think less of British trade and industry and more of the Indian. We must answer this question in the negative. Thus we are driven to conclude that political autonomy alone can create conditions in which our industries will be fostered by a protecting hand. And hence to do our best to secure political autonomy becomes our duty.¹²²

¹²²*The Mahratta*, 18 Mar. 1917.

Chapter VII

Legislature at Work

Demand for a Modern State

In Western countries, during the last quarter of the nineteenth century, a more positive view of the role of the state began to be put forward according to which the duty of the Government was to offer its citizens not only negative protection but also positive advantages. The Government, irrespective of the political complexion of the state, began to undertake comprehensive regulation of society. The process developed farthest in four fields in which only tentative steps had been taken earlier—elementary education, public health, working conditions and control of public utility services.

The Moderate leaders wanted the Government to play the same role for the promotion and welfare of the Indian people as other Governments were doing. They were not wholly unaware of the anomaly involved in expecting an alien government to behave like a nation state. But since they were convinced that it was not possible to dislodge the British in any foreseeable future and that it was necessary to improve the condition of people, they had no choice but to press the British Government in India to expand. Their dilemma came to the fore on the question of financing these activities. Their propo-

sals entailed increase in expenditure by the state which could be done only by increasing the resources at the disposal of the Government. But they were unwilling to give their support to any proposal to increase taxes because they always apprehended that these would only swell expenditure on civil and military administration which was already disproportionate. They were not too far from the reality. Even Butler, the Education Member, admitted that money was being taken from education, sanitation, agriculture, etc., to finance New Delhi.¹

The Government of India was thus placed on the horns of a dilemma. While it was subjected to unending criticism for not spending enough on heads like education and sanitation, all its attempts to impose fresh taxes, except increase in tariff duties, were opposed. Tariff duties could not be easily increased because the vested interests of one or the other group in Britain were adversely affected. So far as education was concerned, it was not just the problem of finding enough money which stood in the way. A majority of British officials held that the spread of education would only prove prejudicial to the continuance of the Empire. G.S. Clarke, the Governor of Bombay, expressed their feelings in a letter to the Governor General. He wrote 'The agitation for education [which] is of quite recent origin, comes from people who are anxious to make our rule impossible. . . . They well realize that their power to stir up discontent would be immensely increased if every cultivator could read'.²

The questions relating to factory legislation and control of major public utility service—the railways—have been taken up in the previous chapter because they became inextricably linked with the issue of rapid industrialization of the country. In this chapter debates relating to education, sanitation, indentured labour and removal of social and other disabilities have been taken up.

¹Butler to his mother, 3 Mar. 1914, Butler Papers (41).

²Clarke to Hardinge, 21 July 1911, Harding Papers (86).

Elementary Education

The Moderate leaders had no doubt that India produced men and women who could hold their own against individuals in any country, but the average calibre in India needed to be raised with the help of universal education. They also looked upon education as a precondition for the establishment of self government, political change, improvement in health and sanitary conditions, industrial advancement and resistance to exploitation. They also maintained that the success or failure of the British in India would be determined by their role in spreading knowledge and improving the condition of the masses. Therefore, they beseeched the Government to fulfill this role. During the period under study the demand for education throughout India grew in insistence and intensity. The manner in which the Indian members, especially Gokhale, carried on the crusade for this purpose had an important bearing on this phenomenon. Hindus and Muslims alike made it a part of their platform. Nothing illustrates more clearly than debates on this question that Indian leaders and British officials were arguing at cross purposes. Both realized that the spread of education would result in awakening amongst the masses and intensify the demand for self government. What the moderates did not realize and the bureaucrats did was that every step gained by Indians on the road to self government was one lost by them. The latter, therefore, resisted all demands for the spread of education.

The issue of mass education became linked with Gokhale's name. Even before the non official members were given the right to move resolutions in the Legislature, he had been drawing the attention of the Government to this question. In the very first session of the reformed Legislature, he moved a resolution recommending that a beginning should be made in the direction of making elementary education free and compulsory throughout the country and that a mixed commission of official and non-official members be appointed at an early date to frame definite proposals.³ The resolution was withdrawn on an assurance from the Government that the whole question

³ILCP, 18 Mar 1910, p. 490

would be examined most carefully. During his speech, he proposed the formation of a separate establishment for the cause of education. His resolution seems to have accelerated the establishment of a full-fledged Education Department in less than a year.⁴

Next year Gokhale introduced a bill on the same subject.⁵ The provisions of the bill were based on the suggestions he had put forward while moving his resolution. The object and the main features of the bill were neatly summarized in the Statement of Objects and Reasons:

The object of this Bill is to provide for the gradual introduction of the principle of compulsion into the elementary education system of the country. The experience of other countries has established beyond dispute the fact that the only effective way to ensure a wide diffusion of elementary education among the mass of the people is by a resort to compulsion in some form or other. And a time has come when a beginning at least should be made in this direction in India.⁶

In view of likely opposition from official circles, he framed the bill with extreme caution. It merely proposed to empower the municipalities and district boards to introduce compulsion under certain circumstances with their jurisdiction, in the first instance in the case of boys, and later, when the time was ripe, in the case of girls, too. Gokhale believed that without compulsion there could be no universal education. He was ready to provide ample safeguards to prevent ill-considered or precipitate action on the part of a local body. He suggested that compulsion might be introduced only if one-third of the boys of school-going age were already going to school. The bill confined compulsory period of school attendance to four years and made ample provision for exemption from compulsory education on reasonable grounds. The bill, in fact, contained so many safe-

⁴See Home (Eastabs.) A Progs., Feb. 1911, 246-57.

⁵ILCP, 16 Mar. 1911, pp. 442-75.

⁶Statement of Objects and Reasons, 28 Feb. 1911, *Gazette of India*, 1911, Part V.

guards that it has been said that had it been passed, it would have remained only a 'monument of premature ambitions'⁷ Gokhale did not even ask for free education because some provincial government had opposed the proposal on the ground that it meant unnecessary sacrifice of useful income⁸

In his speech introducing the Bill, Gokhale presented a masterly survey of elementary education in other countries and contrasted it with the situation in India. He said that 20 per cent of the population went to elementary schools in the U S A and western Europe, 11 per cent in Japan and five per cent in Russia, as against a mere 1.7 per cent in India. The expenditure on elementary education was 16 s per head in the U S A, 10 s in Britain and Germany and 4 s 10 d in France, in India barely a penny per head was spent on elementary education. He further said that during the quarter century from 1882, the expenditure on primary education from public funds (that is, expenditure at provincial and local levels included) had increased by a mere 57 lakhs of rupees while during the same period the expenditure on defence had increased by 13 crores of rupees. He urged the Government of India to provide funds for this purpose as the governments were doing in other civilized countries.

The introduction of the bill was welcomed by all non-official members who participated in the debate⁹. Leave to introduce it was granted because the matter had never been seriously discussed by provincial governments and interested public¹⁰. Gokhale himself carried on a vigorous propaganda in favour of the bill¹¹. Outside the Legislature, the bill received enthusiastic support. About this bill, Gokhale claimed that the support was more overwhelming than that received by any other measure¹². Till the end of 1911, it seemed to the contemporaries that the bill would become an Act¹³. Even a respectable

⁷Haughton, *Bureaucratic Government* (Madras, n.d.), p. 45

⁸Speech by Gokhale, ILCP, 16 Mar. 1911, p. 448

⁹*Ibid*, 16 Mar. 1911, pp. 532-85

¹⁰*Ibid*, speech by Butler, p. 472

¹¹See Gokhale Papers, (F-174)

¹²Speech by Gokhale, ILCP, 18 Mar. 1912, p. 533

¹³See *Round Table*, Dec. 1911, p. 187 and *Indian Review*, Apr. 1912.

minority of official members supported it. Of the 169 British officials who were consulted, fifty-one were in favour of the bill, while, of the sixty-five Indian officials, thirty-nine supported it.¹⁴ But opposition from the provincial governments was 'strong and frightfully discouraging'. In view of the opposition from them, even before the motion for reference to a select committee was moved, it became clear that the bill would be rejected. Two weeks before the motion was moved, A.O. Hume wrote to William Wedderburn: 'It has been pretty well certain for some little time past that his education bill, moderate and cautious as it is, will be rejected by official opposition.'¹⁵

The Government of India did not view the bill in favourable light. Butler described it as 'quite a visionary proposal—the sort of thing one gets from the intellectuals.'¹⁶ But even he could not ignore the enthusiasm it had engendered. A little less than two months after the Bill was introduced, he noted that the demand for compulsory education was 'advocated in Legislative Councils, at public meetings and in the press, by the landholders no less than by the lawyers, and philanthropists and politicians are starting free institutions, night schools and the like.'¹⁷ Before the Bill came up for discussion in the Legislature once again, he decided to act with the aim of taking 'wind out of sails of Gokhale & Co.' He also noticed with concern that the enthusiasm, which the raising of this issue in the Legislature had created, was finding expression in the opening of national schools in Bengal and also opening of more schools by the Arya Samaj and the Khalsa Darbar. This, he argued, meant that control over education was 'slipping through our fingers' and advocated that if the Government wanted to regain control and lead the movement of national education, it should undertake to spend more money.¹⁸ He estimated that the total fees charged in Government and aided elementary schools was about rupees fifty lakhs or less. With a view 'to knocking the bottom out of Gokhale's bill, a recurring grant of fifty lakhs

¹⁴ILCP, 18 Mar. 1912, p. 535.

¹⁵Hume to Wedderburn, 5 Mar. 1912, Gokhale Papers (184).

¹⁶Butler to his Mother, 16 Mar. 1911, Butler Papers (7).

¹⁷Note by Butler, 13 May 1911, para 1, Butler Papers (68).

¹⁸Butler to Minto. 25 July 1911, Minto Papers .

of rupees was announced as a boon from the Crown at the Delhi Darbar ¹⁹

In the Legislature, Butler opposed the bill mainly on three grounds. Characterizing the proposal as an ambitious project, he pointed out that the country was not ripe for introducing compulsion and that before resort to compulsion possibilities of persuasion should be exhausted. Secondly, he said that the cost of any scheme of compulsory education would be prohibitive. He did not want the provincial governments to be like 'hungry sheep who look and are not fed'. Finally, he pointed out that all the provincial governments had opposed the proposal contained in the Bill ²⁰

The supporters of the measure ably exposed the fallacies of these arguments. As to the question of compulsion they argued that no nation had ever shunned this task for being afraid of the imaginary sceptre of unpopularity. Even in 1910 speaking on Gokhale's resolution, Malaviya had said 'No country will ever be ripe for compulsory education unless and until those who are entrusted with its Government feel an earnest and active desire to introduce such education' ²¹. The difficulties of meeting the cost of such a measure also did not make impact because the Indian members had already been arguing that the Government was spending disproportionate amount of money on heads like defence and civil administration. Nor did the non-officials take the argument that the provincial governments had opposed the proposal lying down. Similar bills were introduced in provincial councils ²². There, when the provincial governments pointed to the objections from the Government of India, official statements made in connection with Gokhale's bill were hurled at them ²³. The state of Baroda was one where elementary education had been made compulsory. When Butler rejected the analogy of Baroda on the ground that it was 'autocratically governed', Gokhale gave an impassioned reply

¹⁹Hardinge to G S Clarke, 28 July 1911, Hardinge Papers (81)

²⁰Speech by Butler, 18 Mar 1912, ILCP, pp 567-74

²¹Speech by Malaviya, *Ibid*, 18 Mar 1910, p 569

²²See letters from provincial governments, Home (Public) A Progs., May 1918, 600-6 and KW

²³See report on Patel's Bill in Bombay Legislature in *The Mahratta*, 10 Dec 1916

He said:

Western countries will not do because they are governed democratically! Baroda will not do because it is governed autocratically! I suppose the Hon'ble Member will not be satisfied unless I produce the analogy of a country governed bureaucratically, and as there is no other country governed as India is, he is safe on insisting on such an analogy and I must say I give it up.²⁴

The opponents of the bill were not confined to official circles. Surendranath Banerjea opposed it on the ground that it would divert funds for primary education from higher education, the latter being of primary interest. Chitnavis expressed his doubts about the value of elementary education. To these critics Gokhale made it clear that no such movement ever commanded universal support. Reaction of the Muslim members was mixed. Nawab Abdul Majid and Zulfiqar Ali Khan expressed misgivings about the efficacy and practicability of any programme of compulsory education on the ground that it would be difficult to assimilate it to the needs of different creeds, religions and castes. But many Muslim members supported Gokhale. Among these members were Jinnah, Haque and Shafi. Haque, speaking on Gokhale's resolution said in March 1910, 'As a representative specially elected by Muhammadans, I should like to say that this resolution, if accepted, will raise us in the scale of nations and remove from us the stigma of being a backward people'.²⁵

The debate on the motion to refer this bill to the select committee was held on 18 and 19 March 1912. Gokhale pleaded that the bill was only a series of proposals tentatively put forward and was not like 'Athene issuing from the head of Jove clad in full armour' and that it might, at least, be referred to a select committee. But, in spite of 'the most affectionate embraces of the Government', the motion to refer the bill to a select committee was thrown out by 38 votes to 13 votes. Even when faced with the rejection of his proposal, Gokhale maintained.

²⁴Speech by Gokhale, ILCP., 16 Mar. 1911, p. 585.

²⁵*Ibid.*, 18 Mar. 1910, pp. 577-8.

remarkable dignity of language and temper. Referring to the ultimate fate of his bill he said

My Lord, I know that my Bill will be thrown out before the day closes. I make no complaint. I shall not even feel depressed. I know too well the story of the preliminary efforts that were required even in England, before the act of 1870 was passed, either to complain or to feel depressed. Moreover, I have always felt and often said that we, of the present generation in India, can only hope to serve our country by our failures. The men and women who will be privileged to serve her by their successes will come later. The Bill, thrown out to day, will come back again and again, till on the stepping stones of its dead selves, a measure ultimately rises which will spread the light of knowledge throughout the land.²⁶

The Education Bill failed. But it set the leaven working in the form of increased interest and feeling for elementary education. Gokhale had the consolation that the Government was apprised of intensity of feeling in favour of spread of education and of the need to spend more money on this head.²⁷ At the end of the debate, the Education Member had stated in unequivocal terms

We are determined, resolutely determined to combat ignorance through the length and breadth of this ancient land, up and down and to and fro, and though the struggle may be long and arduous, I do believe, my lord, with all my heart I do believe, we shall prevail.²⁸

Henceforth the demand for free elementary education became more intense and persistent. For Gokhale it became one of the numerous failures to his credit, 'a failure that raised him to the highest pinnacle of fame'.²⁹

In 1913, Gokhale gave notice of another resolution recom-

²⁶Speech by Gokhale, *Ibid*, 18 Mar 1912, p. 546

²⁷Speech by Gokhale, *Ibid*, 25 Feb 1913, pp. 254-5

²⁸Speech by Butler, *Ibid*, 18 Mar 1912, p. 574

²⁹V S S Shastri, *Life of Gopal Krishna Gokhale* (Bangalore, 1937) p. 94

mending that all correspondence on the subject of primary education be laid on the table. The mere notice of this resolution seems to have precipitated action on the part of the Government of India. Barely three days before the date fixed for debate, a resolution outlining the educational policy of the Government was issued.³⁰ Moving his resolution Gokhale said that after the reply of the Education Member in 1912, he had 'waited and waited' for the Government of India to do something.³¹ About the resolution issued by the Government, he said that it was characterized by reticence in regard to the programme to be worked out. It was laid down in the resolution that 'in the not distant future' the number of schools and the school-going population would be doubled. This, Gokhale said, was very vague because in 40, 50 or 100 years, this could happen without any special efforts being made. Once again the Education Member expressed sympathy with the wishes of the mover, but refused to accept the resolution.³²

After Gokhale's death, the question of free and compulsory education was kept alive with the same enthusiasm by other non-official members. Two non-official members from Madras—Sharma and Shastri—played the most prominent roles. In 1917, when the World War was still on, two resolutions were moved by these two members. Asking the Government to treat the question of education as a war measure, Sharma moved (a) that the imperial revenues should accept the burden of future extension of primary education, and (b) that a scheme whereby it might be made universal, compulsory and free throughout British India within a period of fifteen years might be drawn up and sanctioned at an early date and introduced as soon as possible.³³ In the division on this resolution, as many as twenty one Indian members voted in favour. It is significant that even Nawab Ali Chowdhri did not vote against the motion. He abstained from voting. After this resolution was rejected Shastri moved another resolution during the debate on the financial

³⁰Resolution on Educational Policy of the Government of India, No. 301-C.D., 21 Feb. 1913, para 15, *Supplement to the Gazette of India*, 22 Feb. 1913.

³¹Speech by Gokhale, 25 Feb. 1911, ILCP., p. 256.

³²Speech by Butler, *Ibid.*, pp. 262-3.

³³*Ibid.*, 28 Feb. 1917, p. 436.

statement asking for increased grants to the provinces for the spread of education. After this was rejected, similar resolutions were moved during the year following.

A noticeable feature of the debates on this question of education during 1917 and 1918 was the changed tone of the speeches. This was largely a reflection of the uncompromising atmosphere outside the Legislature. The plea that the needs of compulsion could be looked into only after the claims for extension had been met was discussed as mischievous. Sapru asked that if the Government could introduce compulsory vaccination in the face of opposition, why should it fight shy of introducing compulsion in the matter of education. It was also pointed out that if it had been possible to persuade the illiterate people that they should educate their children, the demand for compulsion would have been meaningless. For example, Jinnah asked 'How many centuries, Sir, shall we be kept waiting for those ignorant, illiterate people to be convinced that compulsory education is really for their benefit?' Sir Shankaran Nair, as spokesman of the Government argued that the demand for universal free and compulsory education was not a popular demand and that it was a demand of the Congress, Muslim League and some associations only. To this it was pointed out that the demand could come only from those who knew the benefits of education and when the educated were few and far between how could it be expected that the masses of the people would petition for compulsory education. Another argument advanced on behalf of the Government related to paucity of funds. But even here the officials failed to put forward convincing arguments. The plea that the finances of the Government did not permit allocation of more funds was not accepted. Even in 1912, Gokhale had said that if money could be found for the army because the state thought it necessary, the spread of education was surely as important as the defence of the country. When the members were told that the Government had no money to spare for this purpose during the War Shastri argued that 'war or peace' 'abundance or want', the Government must make a recurring grant every year for this purpose. 'Till such a programme was produced it would be difficult for an impartial judge to quit the Government of merely a platonic adherence to the theory of universal

elementary education.³⁴ Malaviya suggested that expenditure on New Delhi could stand over for some time and instead money should be spent on the spread of primary education.³⁵ The argument that local bodies should tax themselves for the purpose as was done in other countries was also disposed of by the plea that in other countries, the Central Governments did not receive much money in the shape of land revenue while in India the case was reverse.³⁶ This precipitated a demand for the provincialization of land revenue. In 1918, Sharma moved a resolution recommending that either land revenue should be wholly provincialized or the Government of India should undertake to finance free and compulsory primary education out of imperial revenues.³⁷ In fact the priorities and compulsions of a colonial government, such as the British Government in India was, were different from that of a national government. With the resources at its disposal it was maintaining a large defence establishment and a top heavy administration. However much the officials might want to spend on the spread of education, they were not likely to get support for any proposal to increase taxes. They were afraid that any such attempt would lead to a more searching analysis of expenditure in which education had not 'admittedly' had her share.³⁸ In any case, as already said, officials did not want to nurse potential agitators of the *Raj*.

On the whole, it must be admitted that the crusade of the non-official members for the introduction of free and compulsory education was not altogether fruitless. In principle, the Government accepted the need for the measure. The propositions that illiteracy must be removed and that primary education had a predominant claim on public funds were no longer matters of dispute. This demand facilitated the task of the Education Member who admitted in a private letter that so far as the claims of his Department on the budget were

³⁴*Ibid.*, 454-5.

³⁵*Ibid.*, 13 Mar. 1917, p. 580.

³⁶Speech by Sharma, *Ibid.*, 28 Feb. 1918, p. 438.

³⁷*Ibid.*, 13 Mar. 1918, p. 901.

³⁸Secret note by Butler entitled 'Imperial Grant For Education', 22 June 1911, para 2, Butler Papers, (68).

concerned, his battles were fought for him by the non-official members³⁹ It may be noted that the Imperial grants to the provinces for education showed a steady increase But the greater importance of the debates lay in exposing that it was British rule which stood in the way of fulfilment of their aspirations and in preventing their country to keep pace with the changes elsewhere *The Mahratta* wrote 'Neither extension nor improvement in education can proceed with any commendable pace until there is a government in India that feels for the Indian people in that ardent way in which, to take an instance, the British government feels for the Britishers'⁴⁰ It should also be made clear that the fact that introduction of free and compulsory education remained a dream for a long time should not lead one to conclude that its champion—Gokhale—was an idealist Both on the official and non-official sides, many other persons were thinking on the same lines In 1917, Haque said that it was merely a question of time when the Education Member, Sir Sankaran Nair, himself would bring forward such a bill⁴¹ Even Butler and Lord Hardinge noted in their private correspondence that the Government would be forced to concede free elementary education 'within a year or two'⁴²

The Indian members raised many other issues relating to education These did not produce any perceptible results Still the motions can be taken as indicative of their interest and attitudes In the very first session two resolutions were moved on this question by Mudholkar The first proposed that a polytechnic college providing advanced training in all branches of engineering be opened and that a mixed committee of official and non official members be appointed to suggest a scheme for the spread of technical knowledge suitable for the country.⁴³ The question of technical education was in fact linked with the question of industrialization This motion was

³⁹Butler to his Mother, 26 Jan 1911, *Ibid* (7)

⁴⁰*The Mahratta*, 18 Mar 1917

⁴¹Speech by Haque, ILCP, 13 Mar 1918, p 914

⁴²Note by Butler, 13 May 1911, Butler Papers (68) Also see Hardinge to G S Clarke, 16 July 1911, Hardinge Papers (82)

⁴³ILCP, 23 Mar 1910, pp 575-609

supported by all Indian members including the representatives of landholders and Muslims except Umar Hyat Khan and Madge. Those who supported the motion argued that the Government had already accepted the need for the spread of technical education, that in other industrialized countries such as Germany and Japan, the State had taken the lead in providing such facilities and that there was need for co-ordination of efforts in this direction which made it incumbent upon the Government to take the initiative. They also argued that the proposals which the provincial governments had put forward did not go far enough and would not meet the real needs of the country because of the principle accepted in all the countries that technical education had to spread from top to bottom. It is interesting that the speeches of Madge and Umar Hyat Khan were more unsympathetic to the Indian point of view than those on the official side. On behalf of the Government, this resolution was opposed on the ground that it was necessary to first start with modest projects and that there was no short cut to success. The motion was rejected after a division in which all the Indian members except the two mentioned above voted for the motion.

The other resolution moved by Mudholkar was a more modest one asking the Government to expedite the establishment of a college of technology at Kanpur as proposed by the Government of the United Provinces. This resolution was withdrawn after a sympathetic reply from the Home Member.

In 1911, in search of a 'boon' to be announced by the King Emperor during his visit, Hardinge suggested that a grant of a crore of rupees for technical education would appeal tremendously 'to the imagination and impressionability of the Indian people'. This, he hoped, would be most rewarding politically because 'all doubtful moderates would rally to the side of loyalty'.⁴⁴ But the Secretary of State declined to accept this suggestion on the ground that the British cabinet would never agree to it.⁴⁵

In 1915, Rama Rayanar Garu, the representative of the landholders of Madras, moved a resolution recommending that

⁴⁴Hardinge to Crewe, 25 Jan. 1911, Hardinge Papers (117).

⁴⁵Crewe to Hardinge, 30 Dec. 1910, *Ibid.*

steps be taken for making Indian vernacular languages media of instruction and English a second language in all secondary schools⁴⁶ His main plea was that the 'students of immature minds' experienced difficulty in understanding English with the result that they could not follow other subjects taught through the English medium But he was supported only by the one member—Raja Kushalpal Singh, while all other non-official members, who participated in the debate, opposed it⁴⁷ Banerjea, for example, said that the country owed 'an immense debt of endless gratitude' to the 'noble language' and that any curtailment of the area of English education, would be viewed with misgiving, even alarm, in his province The Education Member, however, agreed to refer the matter to the provincial governments after the war was over Next year Dadabhoy moved a resolution recommending that cinematograph should be used for imparting instruction in hygiene, sanitation and agriculture But Malaviya wanted all available funds to be spent on the extension of primary education He also said that the resolution would give an impression that they had nothing more serious to discuss and that the glare of films would be injurious to the eyes of young students The Government, however, agreed to take steps to encourage visual instructions⁴⁸ In 1920 K V Reddy, a nominated member, raised the question of giving scholarships to deserving students from the depressed classes⁴⁹ In the same session, another resolution was moved by Jaffer regarding the extension and improvement of education amongst Muslims⁵⁰ It is notable that he was warmly supported by non-Muslim members In both these cases the Government agreed to undertake inquiries

Establishment of Universities

As many as four universities were established during the period under consideration—at Benaras, Aligarh, Patna

⁴⁶JLCP, 17 Mar 1915, p 418

⁴⁷*Ibid*, pp 418-47

⁴⁸*Ibid*, 17 Mar 1915, p 349

⁴⁹*Ibid*, 9 Mar 1920, pp 1183-5

⁵⁰*Ibid*, 23 Feb 1920, pp 875-85

and Dacca. Legislation for constituting these universities was conducted in the Central Legislature party because of precedent and partly because establishment of universities was considered to be a matter of imperial importance. In the case of the Dacca University Bill, Charnichael anticipated difficulties in piloting it through the Bengal Legislative Council. This became an additional factor in undertaking legislation in the Central Legislature.⁵¹ Indian members took a keen interest in this matter.

The Universities at Benaras and Aligarh were denominational universities.⁵² The initiative in both the cases was taken by Indian leaders themselves. The movement for a university at Aligarh was led by the Agha Khan, Mahomed Ali and some members of the Muslim League while Annie Besant, Malaviya, Raja of Darbhanga and Sunderlal spearheaded the movement for a university at Benaras. At the time the reformed legislature was formed, the two movements were already in the air. In fact the movement for a university at Aligarh was far ahead of the other one. A sum of twenty lakhs of rupees had already been collected for this university while the proposal for a university at Benaras was in an embryonic stage. It is significant that among the original signatories to Mrs Besant's petition begging for a Royal Charter for a University of India sent in July 1910, there were three Muslims—Syed Hussain Imam, Mazharul Haque and Suhrawardy.⁵³ But as the movement for a Muslim university gained strength, they withdrew their names from this scheme.

It was clear from the first that the two movements could not succeed without full approbation from the Government. The Education Member was fully conscious of it. He wrote unreservedly: 'I have the whiphand as unless we recognize their degrees they cannot have an university'.⁵⁴ Therefore the

⁵¹See notes in Home (Public) A Progs., May 1918, 600-606 and K.W.

⁵²For a good summary of the histories of their establishment see A. Basu, *The Growth of Education and Political Development in India, 1898-1920* (Delhi, 1974).

⁵³Education A Progs., Jan. 1911, 76-7.

⁵⁴Butler to his mother, 21 Sep. 1911, Butler Papers (8.)

question why the Government sanctioned these movements became important. The verdict of the University Commission of 1902 was against it.⁵⁵ 'Personally' Lord Hardinge did not like denominational universities.⁵⁶ Most of the officials opposed these projects. They feared that these two institutions would become centres of political agitation and religious rivalry.⁵⁷ In fact Harcourt Butler was the only man from the Indian official world who seemed to favour the idea of a Muslim University.⁵⁸ His aim, as he admitted, was 'frankly political'.⁵⁹ He confessed that he wished 'to see the British in India a really national government liberalizing itself in harmony with Indian opinion...'.⁶⁰ The denominational universities, he believed, would 'inevitably tend to keep alive the Hindu and Muslim feelings'.⁶¹ Finally, the Government decided to go ahead with the scheme because it held that any move that could alienate the Muslims would be 'in the highest degree impolitic'.⁶²

When negotiations for the draft bill started, it became clear that the promoters of the Aligarh University scheme felt strongly about the power to affiliate colleges all over India. But the Secretary of State refused to grant any such permission. This decision, coming at a time when there were increasing signs of drawing together of Muslim League members and the Congress, disappointed the officials of the Government of India.⁶³ They did not want the movement to die. There was also the danger of Hindus and Muslims combining to squeeze the Government over degree of control.⁶⁴ Therefore, the Benaras University Bill was introduced in 1915 and passed in the same year.⁶⁵ From official point of view it had the advantage of

⁵⁵*Report of the Indian Universities Commission* (1902), para 32.

⁵⁶Hardinge to Butler, 13 Feb 1911, Butler Papers, (71)

⁵⁷Butler to Agha Khan, 3 Aug 1911, *Ibid*

⁵⁸A. Basu, *op cit*, p 163

⁵⁹Butler to Lovat Fraser, 8 Apr 1913, Butler Papers (71)

⁶⁰Butler to Agha Khan, 3 Aug 1911, *Ibid*

⁶¹Butler to Hardinge, 25 Sep 1911, Hardinge Papers (82)

⁶²G G to S S, 10 June 1911 (95)

⁶³Butler to Richards 8 Aug 1912, Butler Papers (8)

⁶⁴Butler to Richards, 20 Oct 1915, *Ibid*

⁶⁵Act XVI of 1915

encouraging the Muslims to keep going with their scheme.⁶⁶ It was also anticipated that it would 'create good effect' during war-time.⁶⁷ It was in the nature of a private bill taken over by the Government. In the cases of this bill and the Aligarh Muslim University Bill of 1920 main debate took place outside the Legislature. The Education Member made it very clear that the Bill would be dropped if the non-official members made it controversial.⁶⁸

The Aligarh Muslim University Bill was passed at the Simla session of 1920. Even at that time the Government hurried through the negotiations because of political reasons. The terms of the peace treaty were being negotiated in Europe and the Government of India was aware of the likely resentment amongst Muslims to terms relating to Turkey.⁶⁹ This gesture was made as a sop to assuage their feelings. It is interesting that in the case of this bill Muslims expressed a wish to appoint Deba Prakash Sarbadhikari, a Hindu member from Bengal and also Vice-Chancellor of Calcutta University, to select committee.⁷⁰ The establishment of the university was welcomed by members belonging to both the communities.

The universities at Patna and Dacca were established in response to the demand set in motion after the reconstitution of Bengal in 1911. The bills designed to establish these two universities were drafted together. In the select committee, Government officials and the non-official members did not see eye to eye about the provisions relating to the relations of the State with the syndicate, external second grade colleges and recognition of schools.⁷¹ While officials wanted to ensure Government control over these matters, non-official Members wanted it to be a minimum. The latter described the bill as retrograde in character and pointed out that rather than accept

⁶⁶Hardinge to Butler, 17 Sep. 1912, Butler Papers (71).

⁶⁷Hardinge to Butler, 11 Nov. 1914, Harding Papers, (94).

⁶⁸Speech by Butler, ILCP., 1 Oct. 1915, p. 79. See also Hardinge to Chirrol, 2 Sep. 1915, Hardinge Papers, (94)

⁶⁹Note by shafi (Education Member), 24 Apl. 1920 and Telegram from G.G. to S.S., 25 June 1920, Leg. A Progs., Oct. 1920, 21-36.

⁷⁰See speech by Raja of Mahmudabad, ILCP., 27 Aug. 1920 p. 91.

⁷¹See note by MacLagan (Secy., Edu. Deptt.); Leg. A Progs., Oct. 1917, 27-52, pp. 4-5.

a bill of that sort, they would go without a university⁷³ The disagreement reached a point when the Government decided not to proceed with the measure until after the war⁷³ Finally, a compromise was reached under which non official members were able to score many points⁷⁴ In many important spheres, powers of the Government were restricted while popular control was increased The nominated element was wholly eliminated from the syndicate which was to consist of four ex officio members (the Vice Chancellor, the director and the principals of two chief colleges) and fourteen members elected by the Senate of which seven were to be on the staff of the university or the colleges It was expressly stated that the vice chancellor would be a full time official of the university An important deviation from the Act of 1904 was introduced in providing that the power of the Government regarding affiliation and disaffiliation would be restricted only to cases forwarded by the senate and the syndicate This compromise secured the unanimous assent of all members of the select committee Surendranath Banerjea later described the university as 'one of the most advanced universities of this kind'⁷⁵

In view of the opposition to the Patna University Bill, establishment of Dacca University was postponed till the report of the Calcutta University Commission had been received This decision caused much disappointment⁷⁶ It was in September 1919 that a bill proposing the establishment of a unitary, teaching and residential university at Dacca was introduced⁷⁷ The debate on the motion to refer the bill to the select committee brought out certain interesting things In the first place, the opposition of West Bengal to the establishment of another rival university in the

⁷³Speech by Sanjivan Nair (Edu Member) on resolution regarding Dacca University, 20 Mar 1917, ILCP, pp 692-5

⁷³Demi official from Govt of Bihar and Orissa to Govt of India, 16 Mar 1917, Leg A Progs, Oct 1917,, 27-52

⁷⁴Speech by Nair, 20 Mar 1917, ILCP, pp 692-5

⁷⁵Surendranath Banerjea *A Nation in Making*, p 27

⁷⁶See the debate on the resolution moved by Saiyad Nawab Ali, ILCP, 23 Mar 1917 pp 685-92

⁷⁷*Ibid*, 11 Sep 1919, pp 111-26

province had died down by this time.⁷⁸ Secondly, a demand was put forward for the establishment of engineering and science faculties and this was welcomed by members belonging to other provinces including those members who opposed other proposals.⁷⁹ The most important feature, however, was the demand of Muslim members for more seats for the members of their community on the staff. Zulfikar Ali Khan, the Muslim representative from Punjab, for example, pointed out that this was necessary to secure the interests of Muslims and added that of the one hundred members on the senate of Calcutta University, only seven were Muslims.⁸⁰ The Government acted on the principle of compromise. As the two minutes of dissent—one by Banerjea and Manindra Chandra Nandi, and the other by Nawab Ali Chaudhuri—show both sides were dissatisfied with the provisions.⁸¹ The bill became an act after a hot debate in which division was challenged thrice.

Sanitation

The questions relating to better sanitary conditions and steps for the prevention of spread of preventible diseases like plague and malaria were also raised in the Legislature. During the second half of the nineteenth century spread of such diseases had been controlled in Europe by the application of new discoveries of medical science on a large scale under state patronage and supervision. The Indian members wanted the Government of India also to play the same role. Besides humanitarian concern, the members showed an appreciation of the economic value of good health and wastefulness of sickness and premature death. Education followed closely because without education Indians could not appreciate the basic hygienic needs. In the creation of the Education Department, which was also to deal with questions relating to sanitation, the non-official members saw a recognition, on the part of the Govern-

⁷⁸Speech by Banerjea, *Ibid.*, pp. 674-5.

⁷⁹Speech by Malaviya, *Ibid.*, pp. 691-7.

⁸⁰Also speeches by Saiyad Ali and Malaviya, *Ibid.*

⁸¹Minutes of Dissent to the Report of the Select Committee, 11 Mar. 1920, Leg. A Progs., Apl. 1920, 135-58.

ment of interdependence between the two

As in the case of other developmental activities, the members wanted the Government to spend more money on this head. They wanted the Government of India to increase provincial grants for this purpose. At the same time they showed a disinclination to vote for more taxes. Instead they suggested other methods. For example, Gokhale suggested that a loan should be raised to meet the increased expenditure. Dadabhoi suggested a reduction in allotment of railways while Sharma wanted the Government of Britain 'to help us a little' by releasing Indian funds. The members also put forward the claims of their own provinces on various grounds.⁶²

Apart from a demand for more money for this purpose, the members put forward certain other suggestions to expedite the process. In 1916, Maharaja Ranjit Sinha of Nashipur, moved a resolution recommending the constitution of a sanitary board consisting of Government officials and non official members to advise on sanitary needs of the country.⁶³ But Sir Sanjivan Nair, the Education Member, declined to interpose this body between the Government of India and the provincial governments and said that the board might stand in the way of prompt action. In 1919, Sharma moved a resolution recommending the establishment of a Health Department which he described as a 'National Insurance Department'. This resolution, too, was rejected.⁶⁴ The non official members laid great emphasis on the need to supply drinking water in rural areas.⁶⁵ Surendranath Banerjea took up the question of anti malaria operations and moved two resolutions in 1916 asking the Government of India to instruct the provincial governments to take vigorous measures in this direction and to publish an annual statement on the subject.⁶⁶ In moving these resolutions, he made special reference

⁶²See ILCP, Resolution by Gokhale, 5 Mar 1910, Dadabhoi, 8 Mar 1911 and Sharma, 9 Mar 1918

⁶³ILCP, 22 Feb 1916 pp 144-7

⁶⁴*Ibid*, 8 Mar 1919, pp 767-82

⁶⁵For example, see resolutions by Sharma moved on 9 Mar 1918 and 8 Mar 1919, *Ibid*

⁶⁶See resolutions moved on 15 Feb and 9 Mar 1916 *Ibid*, pp 117-23 and 272-4 respectively

to the conditions in Bengal, where he said, some of the healthiest parts suffered from malaria. Referring to its economic repercussions, he pointed out that during the malarial season, attendance in some of the factories declined by thirty-three to fifty per cent. Imploring the Government to take action, he also said that the Government could not sit idle when people were dying in thousands of a disease that could be prevented.⁸⁷ The first of the resolutions was accepted while in the case of the second it was pointed out that the demand had not come from the local Government concerned.⁸⁸

Reform of Society

Ever since the Revolt of 1857, the origin of the insurgence was attributed by British commentators primarily to Government interference in the social affairs of Indians, the Government of India had not taken any initiative in matters relating to social customs. Towards the end of the nineteenth century, with growing political consciousness, an acrimonious controversy had begun amongst nationalist leaders on the question as to whether political freedom should precede social reform or vice versa. The extremist leaders did not want any alien agency to interfere with their social customs either because they feared that any such attempt, by alienating the orthodox sections of society, would split the political movement or because they believed that Indian social practices and traditions were religiously correct. The moderate leaders, on the other hand, looked upon foreign domination itself largely as consequence of irrational social practices and attitudes. They therefore wanted to equip their countrymen for self government by first removing racial evils and illiteracy.

With the enlargement of Legislature in 1909, both non-official members and Government officials entertained the hope that they would be able to use the Legislature as an agency for social change. Referring to this changed situation, R.H. Craddock said in the Legislature:

⁸⁷Speech by Banerjea, 15 Feb. 1916, *Ibid.*, pp. 117-21.

⁸⁸Speech by S. Nair, 9 Mar. 1916, *Ibid.*, p. 273.

Some few years ago, possibly, it might have been very difficult for Government to circulate proposals of this kind, but circumstances have changed considerably. Not only has there been that notable development in public opinion to which I have referred, but in the large expansion of your Lordship's legislative Council, we have provided here ready to hand an agency which we expect, and confidently expect, will never fail to counteract malevolent influences that may be used against us when measures of this kind are under contemplation.⁸⁹

But in spite of this favourable condition, none of the bills introduced on this subject could become an act. One reason was the increasing reticence on the part of the Government in the face of growing anti Government atmosphere. Moreover, the orthodox sections did not let the Government forget that, with all the power still securely in official fists, the situation had not really changed. In 1912, the *Hitanadi* of Calcutta for example, warned the Government

The existing Legislative Councils are so constituted that any Bill which the Government favours is sure to become law, but one opposed by it would never be passed, and the Government which belongs to a foreign country and a different religion, and has quite different views, is not justified in making laws relating to social affairs of the Hindus.⁹⁰

At a time when opposition to the Raj was growing, the Government did not want to incur the hostility of any section. It showed a readiness to provide an opportunity for crystallization of opinion and did not oppose the introduction of bills. But most of the bills could not proceed beyond this stage. However, in case of bills relating to transfer of property, the Government showed a readiness to remove the disabilities provided the community concerned welcomed such proposals. It is

⁸⁹ILCP, 13 Sep 1912, p. 84

⁹⁰*The Hitanadi*, 21 Sep 1911, Native Newspapers Report, Bengal, p. 1234

significant that three non-official members' bills on this subject became Acts.

Bills Relating to Marriage

In 1911, Bhupendranath Basu introduced a bill to amend the Special Marriages Act of 1872 which had provided that it would apply only to those persons who declared that they did not profess any of the recognized religions of India.⁹¹ As a result, the Act could not be taken advantage of by those *Brahmos* who did not wish to repudiate Hinduism. Basu proposed to remove this disability by so amending the Act of 1872 as to do away with the necessity of the declaration under the Act. The Statement of Objects and Reasons laid down another object of the amendment and that was that it could be availed of by those members of Hindu community who desired to introduce inter-marriages between different sub-sections of the same caste inhabiting different parts of India.⁹² In other words, Basu aimed at providing a simple law of marriage which might be supplemented by religious rites.

Even before the motion to introduce the bill was admitted, the Government members had decided to oppose it because they held that the proposed alteration was not desired by any of the communities. The Home Member counted upon the support of many of the Indian members.⁹³ In order to give the members an opportunity of expressing their opinion, it was decided not to prevent Basu from moving for introduction of the bill. This motion was taken up on 1 March 1911. Moving the motion, Basu expressed his willingness to confine the bill to Hindus if other communities were opposed to it. Of the members who participated in the debate, only Raja of Dighapatia and Haque supported the motion. It was opposed by Nawab Abdul Majid and Umar Hyat Khan on behalf of the Muslims, Dadabhoy on behalf of the Parsees and Maharajadhiraja Bahadur of Burdwan and Subba Rao on behalf of Hindus.

⁹¹ILCP., 1 Mar. 1911, pp. 263-73.

⁹²Statements of Objects and Reasons, 16 Feb. 1911, *Gazette of India* 1911, part v.

⁹³Note by Jenkins, 12 Jan. 1911, Leg. A Progs., Mar. 1912, 113-57.

Leave to introduce the bill was, however, granted. By the time the bill was circulated for opinion, Basu knew that it was not likely to be passed.⁹⁴ During the debate on the motion to refer the bill to the select committee, Craddock admitted that in so far the bill sought to leave it open to individuals to replace or supplement religious ceremonies by civil contract and in so far it emphasized that marriage was a civil contract and not a status, the proposed measure was in consonance with advanced liberal ideas and it was impossible for Government officials to withhold their sympathy entirely from the reformers. But he opposed the motion on the time honoured plea that it was an article of faith for the Government to hold aloof from any interference in social customs.⁹⁵

In 1918 Vithalbhai Patel introduced another bill—the Hindu Marriages (Validating) Bill—on the lines of Basu's bill. His object was to make marriages between Hindus of different castes valid in law.⁹⁶ Sapru, Shastri, Sharma and Khaparde warmly supported Patel. It is interesting that Jinnah had warmly supported Basu earlier and now Patel. He argued that on grounds of equity and fairness, those who wanted to contract marriages outside their caste should be allowed to do so. Majority of the speakers, Nandi, Shukul, Ramphal Singh, Sitanath Ray Bahadur, Ayyangar, Malaviya and Banerjea opposed the motion and argued that in view of enlargement of the legislature, the question could be taken up later. The Government adopted the same attitude it had adopted in the case of Basu's Bill. It showed a readiness to invite public opinion on the subject, but it refused to commit itself. Permission to introduce the Bill was therefore, given. When the motion for reference of the bill to a Select Committee composed of both official and non official members was moved, Vincent moved an amendment that the select committee should consist of Sir George Lowndes, the Law Member, and all the non official members of the Legislature.⁹⁷ Patel would have preferred the mixed committee he had proposed, but he accepted Vincent's as he could

⁹⁴Demt official from Basu to Vincent, 6 Feb 1912, *Ibid*, p 12

⁹⁵Speech by Craddock, ILCP, 26 Feb 1912, p 152

⁹⁶ILCP, 5 Sep 1918, pp 56-73

⁹⁷Speech by Vincent, 22 Feb 1920, *Ibid*, p 1102

not risk losing both.⁹⁸ He presented the report of the select committee on 22 March 1920, the last day of the Delhi session. But as he joined the Non-cooperation Movement and ceased to be a member, no further motion was moved with regard to the bill and it lapsed.

Bill relating to prostitution

The question of prostitution was taken up on 18 September 1912 when leave was granted for the introduction of two bills on the subject and a third one was withdrawn. The first of these bills was introduced by W.C. Madge, the representative of the Indian Christian community. The object of his bill was to suppress the importation of foreign women for prostitution and to punish importers and other persons profiting thereby.⁹⁹ The officials viewed the matter with misgivings. They rightly argued that executive interference in such cases could be based on some kind of a standard of morality which was difficult to define. Moreover such an attempt could have been looked upon as an interference with social customs.¹⁰⁰ They felt that the only direction in which legislation with a view to checking this evil was possible was towards strengthening the law under which pimps, who profited by the prostitution of these women, could be suppressed.¹⁰¹ The bill lapsed because Madge's term of office expired. As Government officials were not in sympathy with his bill, he was not nominated to the Legislature for piloting this bill. After the War started this subject merged itself with the question of keeping out undesirable foreigners and the Foreigners (Amendment) Act was passed in 1915.¹⁰²

The second bill on the same subject was introduced by Dadabhoy providing for the protection of girls dedicated to temples, a practice which was synonymous with prostitution.¹⁰³

⁹⁸G.S. Patel, *Vishalbhai Patel: Life and Times* (Bambay, 1950), Book 1, p. 307.

⁹⁹ILCP., 18 Sep. 1912, pp. 64-6.

¹⁰⁰See K.W. to Leg. A Prog., Apl. 1915, 1-13.

¹⁰¹Home (Judl) letter to Local Governments, Nos. 1826-9, 11 Oct. 1913, *Ibid.*

¹⁰²Act 111 of 1915.

¹⁰³ILCP., 18 Sep. 1912, pp. 66-92.

Mudholkar had also given notice of a similar bill. Since two motions could not be permitted on the same subject, he agreed to speak on Dadabhoy's motion and to withdraw his own.¹⁰¹ Dadabhoy's bill was sympathetically received in the legislature. But provincial governments opposed the proposal. They drew attention to administrative difficulties in the matter. Even if it was true in many instances that temple dedication was in practice synonymous with prostitution, the Government hesitated to make a legal declaration to that effect so long as, in theory, it was not admitted by the Hindus generally. Moreover, it was difficult to establish anything about the intentions of the persons involved.¹⁰² In this case too, Dadabhoy ceased to be a member and he was not nominated for the purpose of piloting his bill. A Government bill, introduced in September 1913 to amend the Indian Penal Code and the Code of Criminal Procedure of 1898 for the purpose of affording greater protection to minors, was a very different measure from the one introduced by Dadabhoy and contained no specific reference to the girls dedicated to temples. Even the officials knew that Dadabhoy would not accept this bill as his own.¹⁰³ Further consideration of even this bill was postponed because of the decision of the Government of India not to take up controversial measures during War-time.¹⁰⁴

Bills relating to Transfer of Property

To Mohammed Ali Jinnah goes the credit of successfully piloting the first private member's bill in the reformed Legislature. In 1913, he introduced the Wakf (Validating) Bill. For sometime Muslim opinion had been clamouring for a measure to counteract the Privy Council ruling in the case of *Abdual Fata Mahomed Ishah and others versus Russomoy Dutt Chowdhury and others* which paralyzed the power of any Muslim to make a settlement for or in favour of his family, children and

¹⁰¹Speech by Mudholkar, 18 Sep 1912, *Ibid*, p 93

¹⁰²G G in C to S S, 27 July 1913, Home (Judl) A Progs, Aug 1913, 6 23

¹⁰³Note by Vincent, 24 July 1913, Leg B Progs, Aug 1913, 79 84

¹⁰⁴*Summary of the Administration of Lord Hardinge of Penshurst* (Delhi, 1916), p 68

descendants or what is known as Wakf-alal-aulad to the Muslim law.¹⁰⁸ The object of this bill was to empower the Muslims to make a settlement in favour of their families, children and descendants.

In January 1911, Jinnah unofficially intimated his desire to introduce a bill on the subject. When the matter was considered in the Executive Council, the members, with the exception of Syed Ali Imam opposed the suggestion on the ground that a fuller and clearer expression of opinion from the Muslims was required.¹⁰⁹ A. Earle, the Home Secretary, opined that the Viceroy should 'refuse sanction forthwith', because it was an attempt to set aside the Privy Council Ruling of 1894.¹¹⁰ Imam, on the other hand, argued that Muslim feeling on the subject was very strong and that the Muslim non-official members of the Legislative Council would 'support Mr. Jinnah to a man'.¹¹¹ Finally, leave to introduce the bill was granted for ascertaining the true state of Muslim opinion.¹¹² The bill was introduced on 17 March 1911 and was supported not only by all Muslim members but also by many Hindu members.¹¹³ The Government of India allowed the bill to be introduced reserving its right to oppose the bill as a whole or in part if it appeared expedient at any later stage.¹¹⁴ The opinions received were favourable to the bill. Even after this Vincent remained opposed 'to the whole principle of the Bill'.¹¹⁵ and tried to obstruct its passage in his own private way. In 1912, when Jinnah decided not to stand for election and applied to the Government to nominate him to the Legislature to enable him to pilot his bill, Vincent pointed to the difficulties of finding a seat for him.¹¹⁶ Jinnah was, however, nominated and the bill was referred to a select

¹⁰⁸Statement of Objects and Reasons, 15 Mar. 1911, *Gazette of India*, 1911, part V.

¹⁰⁹See Leg. A Progs., Apl. 1913, 305-51, pp. 1-5.

¹¹⁰Note by Earle, 20 Feb. 1911, *Ibid.*, pp. 3-4.

¹¹¹Note by Imam, 2 Mar. 1911 *Ibid* p. 5.

¹¹²Order in Council, 10 Mar. 1911, *Ibid.*, p. 6.

¹¹³ILCP., 17 Mar. 1911.

¹¹⁴Speech by Earle, *Ibid.*, p. 491.

¹¹⁵Note by Vincent, 21 Nov. 1911, Leg. A Progs., Apl. 1913, 305-51.

¹¹⁶Note by Vincent, 27 Feb. 1912, *Ibid.*

committee¹¹⁷ Vincent also suggested that on this issue the officials should be given freedom of vote¹¹⁸ In the select committee, only three of the twelve clauses were retained But these three clauses were of basic importance which secured the main principle of his bill¹¹⁹ The passing of the bill was welcomed by all the members Jinnah said in the Legislature, 'I trust the Government will always make us feel that it is our Government, and if we have got a reasonable complaint, a reasonable grievance to put before you fairly and properly, you will meet us fairly, and properly.'¹²⁰ It may be noted that even the Hindu members participated in the debate¹²¹ The passage of this bill shows that, despite strong Muslim feeling on the subject, the Government would not have taken the matter in hand on its own initiative It also shows that if Syed Ali Imam had not been in the Executive Council, Jinnah's efforts might not have succeeded

The Hindu Disposition of Property Act

The Hindu Disposition of Property Act was another act passed on the initiative of a non official member, Sir chimanlal Setalvad The bill aimed at removing certain disabilities under which Hindus laboured in regard to the disposition of their property in favour of unborn persons The bill, as introduced, applied both to Hindus and Muslims and was entitled 'The Hindu and Mussulman Disposition of Property Bill' From its inception it had been regarded as a non controversial measure and Setalvad, the mover, was allowed to move a motion for reference to a select committee without circulating the bill for opinion¹²² But later, on Dadabhoy's amendment, the bill was referred to the provincial governments¹²³ Their replies showed that Muslims were not unanimous in their opinion while Hindus

¹¹⁷ILCP, 17 Feb 1913 pp 219 23

¹¹⁸Vote by Vincent, 27 Dec 1912, Leg A Progs, Apl 1913, 305 51

¹¹⁹Report of the Select Committee, 24 Feb 1913, *Gazette of India*, 1913 part V

¹²⁰Speech by Jinnah, 5 Mar 1913, ILCP, p 336

¹²¹See speech by Banerjee Ibid, pp, 343 4

¹²²G G in C to S S, 5 Nov 1915, para 3, Leg progs, Oct 1916, 44-83, pp 22-3

¹²³ILCP, 22 Feb 1916, pp 129 32

were generally in favour.¹²¹ Consequently, the provisions of the bill were confined to Hindus and the Governor-General was empowered to extend it to the Khojah Muslims of Bombay as a considerable part of the law administered with regard to them was Hindu Law.¹²⁵ The bill, as amended by the select committee, was passed by the Imperial Legislative Council without amendment.

The Transfer of Property (Validating) Act

The Transfer of Property (Validating) Bill was introduced by Malaviya to enable persons to dispense with the statutory necessity of attestation and to place sale deeds and the deeds of mortgage to that extent on an equal footing by amending section 59 of the Transfer of Property Act of 1882. The proposal was welcomed by the Government of India because it had long been contemplating legislation on the subject.¹²⁶ But when the bill was circulated for opinion it was discovered that only the Government of the United Provinces was in favour of such a change. Finally, the provisions of the bill were confined to the United Provinces and it became an Act,¹²⁷

Indenture Labour

The question of the discontinuance of indentured emigration to Natal had attracted much attention in India both on humanitarian grounds and as means whereby pressure could be brought to bear on the Governments in Natal and Transvaal so as to secure better treatment of Indians in the two colonies. The officials had anticipated that the question would be taken up in the Imperial Legislative Council.¹²⁸ As in the case of elementary education, Gokhale took up the question with the zeal of a

¹²¹See Papers relating to Act XV of 1916.

¹²⁵ILCP., 5 Sep. 1916. Provisions regarding the Khojas did not come into operation owing to a division of opinion on the subject among the Khojas. See Setalvad, *Recollections and Reflections-An Autobiography* (Bombay, 1946), p. 255.

¹²⁶Leg. A Progs., Oct. 1917, 134-65.

¹²⁷ILCP., 21 Feb. 1917, pp. 348-9.

¹²⁸Note by Maxwell, 18 Feb. 1910, Commerce and Industry (Emigration) A Progs., File no. 34 of 1910.

crusader On 25 February 1910 he moved his first ever resolution recommending that the Governor General in Council be empowered to prohibit the recruitment of indentured labour in British India for the colony of Natal The resolution referred to Natal because migration of Indian labourers under indenture was confined to Natal and but for its introduction there, the problem of 'heartless treatment' of Indians in Africa would not have arisen ¹²⁹ The Government of India had already been considering this question The Government of India later decided to prohibit emigration to Natal with effect from July 1, 1911 In 1912 Gokhale took up the question of prohibiting recruitment of Indian labours under contract whether at home or in any British colony In 1912 when Gokhale was appointed a member of the Public Service Commission, he refused to resign the membership of the Indian Legislature and one reason he gave was his desire to push forward the question of treatment of Indians in South Africa ¹³⁰ During the middle of 1913, serious riots started in Natal In October 1913 Gokhale sent notice of a resolution to the Government of India which he intended to move But the Legislature was not in session and the idea of a special session was not accepted on the ground that it could form an inconvenient precedent ¹³¹ However, in order 'to soothe the agitation in India', Hardinge delivered a speech at Madras in December 1913 in which he criticized the Government in South Africa ¹³²

After Gokhale's death in 1915, the question was not allowed to die In 1916 and again in 1918 Malviya moved two resolutions In 1916 he urged the Government to abolish the system of indenture This resolution was accepted In 1918 he again asked the Government to work for the early release of those Indian labourers whose indentures had not expired This resolution was accepted after making it applicable to Fiji only

¹²⁹JLCP, 25 Feb 1910

¹³⁰Gokhale to Shastri, 6 Sep 1912, Shastri Papers

¹³¹See Commerce and Industry (Emigration) A Progs, Oct 1913, File no 71

¹³²Hardinge to Willingdon, (Gov of Bombay), 11 Dec 1913 (86)

In 1920 Banerjea was asked by Sir George Barnes to move a resolution on the question of emigration to British Guiana and Fizi which he moved on 4 February 1920.¹³³

On the question of indentured labour the Government of India and the Indian members of the Legislative Council were in complete accord. The reason was that on this question vested British interests did not stand in the way and Hardinge looked upon this issue as one on which the Government could win over the goodwill of educated Indians without arousing hostility in Britain. The sensitivity of the Indians on this issue was an important consideration with him. But the proceedings in the Legislature were relevant only because they provided a means for voicing their views to Indians and displaying concern for Indian opinion to the Government. Gokhale attached importance to raising the question in the Legislature and noted in 1913 that the mere notice that he was returning to raise a debate on this issue had led Imperial Government to exert itself on the Indian side more than before.¹³⁴ His contemporaries agreed with him as is obvious from the many letters he received from Indian residents abroad imploring him to raise the question in the Legislature on their behalf.¹³⁵

Thus the Indian members used the Legislature to implore the Government of India to assume the role of a modern state as other Governments were doing. In the sphere of elementary education they did succeed in popularizing the issue and in convincing the Government of earnestness of their desire. The two decades that followed saw the enactment of measures for enforcing compulsion in elementary education by the legislatures in other provinces and Indian States. During the latter years the non-official members did not dare to oppose any such suggestion. The greater importance of the proceedings, however, lay in exposing the limitations and inhibitions of a foreign government in undertaking developmental work because of excessive demands on its finances by elementary needs of perpetuation of their rule and its inability to raise necessary funds. Work of free and compulsory elementary education, after all,

¹³³See notes in Leg. A Progs., Mar. 1920, 1-4.

¹³⁴Gokhale to Chintapant, 14 Aug. 1913, Gokhale Papers, F. 203.

¹³⁵See *Ibid.* (242/56), (280) and (293/5).

called for massive investment. In the field of university education, all the battles were fought primarily outside the Legislature. In matters relating to marriage laws and end of prostitution, the non-officials could not put up a united front and various measures at best provided occasions for crystallization of opinion. The measures relating to transfer of property, however, could not have been undertaken if the initiative had not come from Indian members. This period was also of some achievement in respect of putting an end to indenture labour. But here too the Legislature provided an arena for discussion and popularization of issues. But the decisions did not follow from these discussions. On the whole the Indian members put forward proposals for changes from above in some restricted spheres. They did not think in terms of a planned programme of all round development for the upliftment of the masses. The questions relating to less privileged communities, regions and sections of the population were also treated as of marginal relevance. The debates however had unmistakable relevance for national politics for they highlighted one fact that the Government did not feel strongly about social and economic issues because it was a foreign government. In a speech Shastrī who was known for his temperate views and tone, said

They cannot say "we are a foreign government we cannot bear the odium and the unpopularity of a measure of compulsion." If the Government were our own, if we were in charge of the portfolios and all the machinery of Government as you are today, we should probably have no hesitation in going in for a measure of compulsion. And I dare say, Sir, you are all rapidly moving to the attitude when you will recognize that, being in our place, that is, the place which belongs to us by nature, you should likewise incur our responsibilities.¹³⁶

Chapter VIII

Conclusion

The scheme of constitutional reforms associated with the names of Morley and Minto marked an experimental approach to the changes on the Indian scene which looked much larger in the contemporary milieu than in perspective. At a time when anti-Government feeling in India was spreading fast, the British Government liberalized the constitution and added to the functions of the central and provincial legislative councils with a view to win the support of those sections in India who were ready to co-operate with the Government. The moderates in the Congress formed one such influential group who were hoping to march on the road to self-government under the British umbrella. But the British officials had perceived that the demands of these leaders could not be accommodated within the framework of the Raj. Therefore, in the process of winning over the moderates, they sought to make provision for other allies and counterweights in the Reform Scheme. At first they thought in terms of creating a 'Council of Princes', or its elaboration the 'Council of Notables'. This idea was later given up. At this stage another alternative appeared before the Government—that of winning over the Muslims by special concessions. The correspondence and notes on this question make it amply clear that once promise to give special consideration to Muslims was

given, the Government of India espoused their cause relentlessly in spite of opposition in India and strong misgivings expressed by Morley

It has been customary to denounce the changes introduced under the Morley Minto reform scheme Montagu and Chelmsford, the joint authors of the *Report on Indian Constitutional Reforms*, set with the standard in this respect Referring to the 'great defects' of the electoral system they noted "The chief of these are the very restricted nature of the present franchise, and except in the constituencies composed of the members of some special class or community, the lack of any real connection between the primary voters and the member who sits in the Council"¹ There is no doubt that franchise was extremely restricted and that the largest constituency which returned a member to the Indian Legislature did not exceed 650 persons It is also true that the thirteen representatives of 'the people at large' were returned by a doubly indirect system of elections But it cannot be denied that introduction of elections direct for some seats and indirect for others, was an important innovation It necessitated the creation of franchise lists at the central and provincial levels and took politics to the doors of many who were previously unaffected by it

It is of even greater significance that in spite of complicated machinery of selections small constituencies 'doubly indirect' system of sending representatives and an elaborate list of disqualifications, prominent leaders of the Indian National Congress and the Muslim League managed to enter the Legislature Many members sent by exclusive Muslim electorates were men known for their nationalist views It may also be noted that though Government officials found the incisive criticism of Gokhale and Jinnah, torrential eloquence of Malaviya and Shastri and journalistic disquisitions of Banerjee to be most irksome, these men could not be excluded The officials had often argued that Indian gentlemen of position would not offer themselves as candidates to a wide electorate because of their reluctance to risk the indignity of being defeated by rival candidates of inferior social status This was the justification offered for creating special landholders' electo

¹*Report on Indian Constitutional Reforms* (1918) para 83

rates. But when elections were held, the landholders came forward freely to contest elections not only from constituencies expressly reserved for them but also from other constituencies.

The rules of business of this legislative body had been modelled on the lines of British parliamentary procedure. So long as the membership was confined to those people who were not interested in legislative work, the officials took pains to ensure publicity for legislative proposals and to induce Indian members to take an interest, but once elections were introduced and men committed to the nationalist cause entered the legislature, these resemblances acquired a new dimension. They attached great importance to these procedural similarities. Sir Guy Flectwood Wilson, the Finance Member, who also presided over some of its sessions, noted:

They are terribly in earnest and devour with avidity any remarks illustrative of the House of Commons methods, for a Parliament is their ideal, a Parliament they mean, *a la longue*, to get and a parliament in the end they will possess; always assuming that British India remains British India.²

The officials, on their part, adopted a patronizing attitude. They went through each notice of motions very carefully suggesting alternative drafts of questions and resolutions so as to bring them within rules. Familiarity with Legislative Department records increases one's respect for officials. The attention to detail, the readiness to consider each notice sympathetically and the desire to allow to the members opportunity to express their opinion were remarkable indeed. On the Indian side, one is impressed by the sincerity with which rulings from the chair were respected and the decorum and the sense of responsibility with which they participated in debates.

Even the most sanguine of the Indian members did not believe that their arguments and unanimous protests would deter the Government from pursuing an announced policy. Still

²G.F. Wilson, *Letters to Nobody* (London, 1921), pp. 60.

the seats in the Legislature were much sought after. The members continued to argue, cajole and plead with great earnestness until the very last session. The questions then arise: Why did these men enter the Legislature? Why did they continue to accept defeat after defeat? What was their conception of their role in the Legislature? The prospect of receiving a remuneration was obviously not a factor. In fact the allowances of the members were curtailed in 1910 on the ground that, since they had become elected members, their services were no longer for hire. They still took so much interest in the proceedings that it irked official members. The desire to get publicity and prestige was certainly a factor with some members. But the members who played a more active role in the Legislature were well known figures. If anything, their efforts were subjected more to ridicule than to praise in the Indian press. These members had no illusions even about their real standing in the Legislature. They knew fully well that they had no prospect of getting power and that their functions were only to offer suggestions and to criticize. They did not think in terms either of obstructing the Government or of registering their consent to official policies.

The motives of moderate leaders can be understood only in the context of the basic tenets of their goal and methods.

Conscious of the backwardness of their own people, of the enormous powers at the disposal of the Government and with immense faith in the good intentions of the British, the moderate leaders wanted to improve the conditions of their countrymen and to induce the Government to follow such policies as were in the interest of Indians themselves. Even when they failed to make the Government introduce desired changes, they hoped to increase political awareness amongst educated Indians. In a letter to Wedderburn, Gokhale, wrote

After all, at the present stage we cannot and must not think of depending on a defeat of the Government. We must still rely mainly on the methods of persuasion and though these might continue to fail with the officials, they might fare better with our backward non official colleagues and the constituencies that are behind them. And I feel confident that before many years are over, these backward

colleagues of ours will come into same lines with ourselves.³

The members with nationalist leanings made efforts to co-ordinate their work and their demands in the Legislature though no fixed divisions emerged. In this respect they looked to Gokhale for direction. In the official circles these attempts were watched with concern as can be seen from the following extract from a C.I.D. report.

The Hon'ble Mr. Gokhale privately discussed with the Honourables Mr. Dadabhai, Sir Vithaldas; Sir Sasson David, Mohammad Ali Jinnah, Mazharul Haq and several other members, the desirability of organization and division of work in the Council in such a manner that at least two members should devote themselves to studying and mastering the details of each department of the Government... [The] discussion resulted in an agreement to the effect that they should organize opposition on the lines mentioned above, and should ... persuade Government to legislate, taking into consideration chiefly the well-being of the Indians, and that if they failed to persuade the Government, they should resign in a body.⁴

Gokhale was able to inspire unrivalled respect and awe by his experience, hard work and tremendous faith in the method he adopted. After his death in 1915, no member could take his place. The closing years of Morley-Minto councils witnessed rising expectations and more vociferous criticism of government policies. During this period a clear division was visible. In official circles Malaviya, Jinnah, Khaparde, Patel and Iyengar were often described as extremist members while Shastri, Banerjea and Wacha became known as moderate members.

In a body where different groups had been meticulously assorted with the declared purpose of acting as counterweights to each other, it was natural that some members would tend to

³Gokhale to Wedderburn, 3 Dec. 1909, Gokhale Papers (F 20/159).

⁴Cited in B.R. Nanda, *Gokhale* (London, 1977), p. 358.

support the Government. But, what stands out in the legislative behaviour of the members is that there was hardly any issue on which divisions were along official lines. On the other hand, there were many issues on which the Indian members did not hesitate to sink their differences and vote together. This happened on issues relating to fiscal autonomy for India, state control of railways, abolition of cotton excise duty and abolition of emigration under indenture. On divisions on what were described as 'repressive measures', in the beginning, most of the 'loyalist' members tended to support the Government. But on the Rowlatt Bills in 1919 all the Indian members (even the member from Burma) voted against the Government. The press attached more value to the votes of these 'loyalist' members when they were cast against the Government. The *Tribune* commented that every vote given by zamindars and Muslims in favour of non official motions had 'a special value put on it by Government's own standards as in the case of the coins of the realm. The Government, by its own regulations, is bound to take the votes at its regulation and not at the face value' ⁵ Even the nominated members did not always vote in favour of the Government. The authors of the Report on the Indian Constitutional Reforms noted

. during the years which have elapsed since the inception of the reforms, tendency to joint action has grown perceptibly stronger. In as much as the nominated members are appointed to represent particular interests, they were at first expected to act independently, but in many matters they have acted with the elected members, and on racial questions in particular it was natural that they should not divorce themselves from general Indian point of view ⁶

But the Government seemed to be carrying on its policy as if the voice of the legislative councillors was never heard.

The fact that the Government did not generally respond to criticism in the Legislature should not be taken to mean that

⁵*The Tribune*, 9 Mar 1912

⁶*Report on Indian Constitutional Reforms* (1918) para 95

its work was barren of results. Various members of the Executive Council—Hardinge, Craddock, Butler, Wilson, C.H. Hill—who later wrote their memoirs vouched that the public proceedings did not offer a real idea of the influence that the non-official members were able to exercise. A perusal of available private papers of officials and papers relating to various legislative proposals shows that invisible effects of the existence of this body were even more important. The officials acted with the knowledge that scrutiny of any item might take place. It became a matter of honour with them to secure as many non-official votes as they could. It is notable that though the Government was determined to push the Press Bill and the Seditious Meetings Bill through the Legislature, it still tried to work out the extent of support among the non-official members. In 1917 when the question of continuance of the Defence of India Act came up, Chelmsford read the proceedings of the Legislature to gauge the reaction of Indian members. He concluded that public opinion was not 'likely to tolerate the enactment of drastic repressive legislation upon the mere *ipse dixit* of Indian officialdom that such legislation was necessary.'⁷ It is significant that the Government of India had decided upon the legislative measures before the Sedition Committee was appointed. This Committee was in fact appointed with the sole aim of sugar-coating the bitter pill of repressive measures. Even in making appointments to the Executive Council, the existence of the Legislative Council was kept in view. In 1910 the Viceroy recommended that R.W. Carlyle should be appointed as Member-in-charge of Revenue and Agriculture Department because he knew 'privately of an intended attack in which Gokhale is interested on the whole of our revenue system, and it is all important that we should be well prepared to meet it.'⁸ Similarly, Hardinge's term of office was extended from November 1915 to the spring of 1916 so that Chelmsford could rather start quietly at Simla than 'plunge at once into Delhi and the Legislative Council.'⁹

⁷Chelmsford to Chamberlain, 27 June 1917, Chamberlain Papers (AC 22/91).

⁸Minto to Morley, 26 May 1910, Minto Papers (M 1010).

⁹Crewe to Hardinge, 28 May 1915, Crewe Papers (Box p/3 (1)).

The real significance of the legislative work did not lie even in exercising this invisible and indirect influence. This lay in the obligation the enlarged Legislature imposed upon officials not only to listen to what Indians had to say but also to give answers to the points raised by them. The very idea of enlarging the legislative councils and extending their functions amounted to a recognition that public opinion in India had value and that officials were not the best judge of what was best for Indians. Implicit was the recognition that there was a divergence between the interests of the rulers and the ruled. It was no longer enough for the officials to do what was right but also to convince the outside observers that it was right. This obligation did not remain confined to matters which the Government felt compelled to introduce. The right to move resolutions on matters of general public interest enabled the members to raise many other issues. In support of their motions they often produced logically incontrovertible and morally irrefragable arguments based on a careful study of all available facts and figures. The officials on the other hand, found it difficult to put forward a convincing defence.¹⁰ In 1911 when the Secretary of State 'ordered' the Government of India to decrease the import duty on tobacco which had been increased only the previous year, an amendment to the bill proposing increase of this duty was declared out of order after it was debated at length because the officials were finding it difficult to speak in support of official policy. Similarly in 1913 when the notice of the resolution relating to state ownership of railways was received, Hardinge wrote to the Secretary of State 'The raising of these questions will, I am afraid, be very embarrassing both to yourself and myself because they are

¹⁰Some imperialist historians still argue that the most fundamental questions that preoccupied 'the imperial mind during the period from 1858 to 1947 were 'how was Britain's civilizing mission to be accomplished, in what ways were Indians' minds to be opened to new ideas, and how were the poor, ignorant millions to be raised from the dust?' See C H Philips, *Introduction to The Evolution of India and Pakistan Select Documents* (London, 1962), p viii. However, the owners of this imperial mind, the senior, ICS found it most difficult to cull arguments which could convince either themselves or Indians of such intentions.

based on reasonable ground'¹¹ Again in 1915 the Commerce and Industry Member expressed his unwillingness to participate in a debate on industrial development of India if it needed telling the Legislature what they had done.¹²

The discussion of various issues did not cease with the debate in the Legislature. The motions and arguments reverberated in the press throughout the length and breadth of the country. G.S. Clarke the Governor of Bombay noted: 'The steam which is freely let off in our Councils does not pass away into space, but it is used to drive a good many printing presses.'¹³ It was most uncharitable to the non-official members and unrealistic so far as the future of the Raj was concerned to dismiss the criticisms of the Indian members 'as almost entirely of a sentimental character' as Hardinge often tended to do.¹⁴

The Morley-Minto Reform Scheme was conceived as a device for strengthening the Raj. But far from strengthening, the debates tended to erode its moral foundations. No autocratic system can long survive if it exposes itself to public criticism without the ability to counter it. The uncontradictable denunciation of administration could not fail to create an atmosphere in which the acceptability of the Raj was bound to decline. The debates seemed to confirm that the Government was not ready to give a sympathetic ear to the most moderate demands of Indians, that it was bent upon following a repressive policy and that the officials were averse to imparting education to the masses in India, to developing the country industrially, to introducing self-governing institutions, to the association of Indians with Englishmen in the government of the country or to introduce such changes as would interfere with the prestige, emoluments and vested interests of their compatriots in Britain. The stand taken by Indian members acquired additional solidity because it was based on reasonable

¹¹Hardinge to Crewe, 2 Oct. 1913, Crewe Papers (Box 1/a).

¹²Note by Clarke, 4 Nov. 1915, Commerce and Industry (Industries) Progs., July 1916, No. 16, File No. 150/1.

¹³Clarke to Hardinge, 5 Apl. 1911, Hardinge Papers (81).

¹⁴Hardinge to Morley, 16 Mar. 1911, Morley Papers; Hardinge, *My Indian Years* (London, 1948)

grounds, because their delivery carried conviction, because they showed remarkable persistence, because they exuded little bitterness and, above all, because official defence lacked all these characteristics. Self government for Indians seemed to be the only remedy. Even when the issues they raised and the arguments they advanced were not new, the debates performed a very useful function—that of popularizing this ideology. This aspect of the relevance of legislative proceedings was not lost on the contemporaries. Goaded Indian members to carry on their crusade undeterred by sure defeats, the *Mahratta*, a paper associated with Tilak himself, wrote

Here is a massacre of innocents always going on, but we feel invigorated by the faith that the blood of the martyr is the cement of the church. The officials may be laughing at us now, looking at the mad desperation with which the leaders of the non official opinion are breaking their heads against the official stonewall. But we shall laugh best because we hope to laugh last.¹⁵

The growth of communalism in India leading ultimately to the country's partition is often linked with Morley Minto reform scheme. No less a person than Gandhi himself is said to have told Lady Minto 'The Morley Minto reforms have been our undoing. Had it not been for the separate electorates then established, we should have settled our differences by now'.¹⁶ The aim of the Government in giving weightage to the Muslims and in providing separate electorates was not to correct imbalances in Indian society but to bind the Muslims to the Government 'with silken chain of gratitude'. The immediate results of the introduction of the principle of weightage and separate electorates for the Muslims belied these expectations. Rather than supporting the Government, some of the Muslim leaders like Mazharul Haque, Mohammad Ali Jinnab, the Raja of Mahmudabad and Burgari tended to act in concert with other nationalist members. In fact, hardly any issue came up on

¹⁵*The Mahratta* 19 Mar 1911

¹⁶Countess of Minto, *India, Minto and Morley, 1905-1910* (London, 1934), p. 20

which interests of the Hindus and Muslims *per se* clashed. These debates focussed on the identity of interests of the subject people vis a vis a foreign Government. This must have been an important factor in drawing the two premier organizations—the Indian National Congress and the Mnslim League—nearer each other leading ultimately to the Lucknow Pact in 1916.

This unity between Hindu and Muslim leaders moved all the latent alarums in official circles. Pointing out that 'the strength of nationalist feeling in India' was unquestionably greater than it had ever been, James Meston, the Governor of U.P., wrote to the Viceroy:

The Christmas meetings at Lucknow caught up and consolidated popular sentiment as few political events have done. Extremists and Moderates have united after years of misunderstanding; and, greatest marvel of all, Mahomedans had also come into the fold... The resultant union of all voices has filled educated India with a pride and a feeling of nationality which it is impossible to ignore.¹⁷

It is noteworthy that as soon as prospects of unity between Hindus and Muslims appeared, the Government of India recoiled from the earlier position. In the famous 'Despatch on Questions likely to Arise in India at the End of the War', the Government of India expressed itself against giving double votes to Muslims and pointed out that in allotting constituencies to Muslims it was not necessary to go appreciably beyond numerical proportion.

In the long run, however, the introduction of the principle of weightage and separate electorates for the Muslims proved to be master strokes of imperialist strategy. The stage was now set to play Hindus and Muslims against each other with a shadow of regard for equity and justice. Once religion was inserted as a political factor, persuance of interests along religious lines became the accepted norm necessitating appeal to religious sentiments to get votes and to retain them. Even the nationalist

¹⁷Note for the Viceroy by Sir James Meston, 7 Feb. 1917, Meston Papers (17).

Muslims like Jinnah and Haque who entered through separate electorates found it difficult to pose as representatives of all people inhabiting the territorial units they belonged to. At the 1910 session of the Congress Jinnah and Haque spoke against further extension of separate electorates. But since they had themselves entered through separate electorates, they could not speak with force or conviction. Even in 1916 the Lucknow Pact could be formed only after the Indian National Congress accepted the demands for weightage and separate electorates for Muslims. It also encouraged certain vested interests to assert their communal as opposed to their class or national identity. Success of the Muslims in joint electorates was resented by communal minded Hindu leaders on the ground that concessions to one community amounted to imposition of disabilities on other communities. Even the committed apologists of the Raj have not been able to meet the argument that by granting separate electorates to Muslims, the British institutionalized communalism and thereby weakened the forces of nationalism.

The Indian Councils Act was passed frankly with a view to satisfying the aspirations of politically conscious Indians and not to increase the contact between the Government and the masses. The officials expressly denied that educated Indians represented the masses or were acquainted with their wants and aspirations. In fact, in the despatch of 21 March 1907, one reason given for maintaining the majority of official members was that 'the cultivators of the soil, who form the great majority of the population can under existing conditions only be represented by official members who are best acquainted with their wants'.¹⁸ Indian members of the Legislature vehemently denied these charges and this claim. Their work in the Legislature shows that they were not oblivious of the miserable condition in which the mass of the people lived and that in raising various issues they were motivated not so much by selfish class interests as by a desire to improve the condition of the masses. They invariably criticized all proposals to increase those taxes the incidence of which was likely to fall more heavily on the poor. They opposed increase of duty on petroleum and salt. Instead they showed a

¹⁸G G in C to S S, 21 Mar 1907, para 46, Morley Papers (32)

readiness to accept increase in the income tax. It is worth noting that in 1912 when M.B. Dadabhoy moved a resolution recommending that in view of the increased cost of living, the lower limit of income assessable to income tax be raised to Rs. 1500 a year, he was not supported by other members. The opposition to increasing the income tax came from officials and some landholding members. In 1918 a proposal was made to add the agricultural income of an assessee to his total income for the purpose of determining the rate of tax applicable to taxable income. It were the officials themselves who proved to be the most vocal opponents of this proposal to tax the landholders and it was when they were given freedom to vote that the attempt could be frustrated. Similarly, in the Bihar and Orissa Legislative Council, the Champaran Agrarian Act was passed in 1918. During its passage an amendment was moved proposing the tightening up of the law so as to help the landlord to exact *obwab* from the ryots in addition to the rent. On this occasion officials were given freedom to vote. It is noteworthy that the non-official members voted solidly in the interests of the ryots while seven officials voted in favour of the landlords.¹⁹ If these instances are taken as guidelines, one can safely conclude that it were not Indian members but officials who treated the interests of the masses as matters of secondary concern. The Indian members often proposed raising of import duties on items like cloth, sugar, liquor and tobacco though they belonged to the class which was the chief consumer of these articles. In the economic sphere, they showed almost obsessive concern for need for rapid industrialization. The proposals they put forward in this connection emanated not from any desire to forward the interests of a particular class but from the desire to adopt such means as would enable India to catch up with other countries which were already so advanced. G.F. Wilson, the Finance Member, was forthright enough to admit that amongst the Indian members 'the singleminded desire to further the interests of the country is universal.'²⁰

¹⁹Letter from the Government of Bihar and Orissa to the Government of India, 20 Mar. 1918, Home (Public) A Progs., May 1918, 600-6 and K. W.

²⁰Wilson, *Letters to Nobody, 1908-13* p. 185.

Under the Morley-Minto reform scheme, the moderates reached the peak of their influence and achievement. But their goal of making British Government in India 'national in spirit' remained distant. The limitations of the approach and methods of work of the moderates arose from the milieu in which they had grown. They represented the faltering loyalty of a generation that had taken advantage of various opportunities presented by a colonial set up. They remained obsessed with sentiments of loyalty to the British crown and sense of justice of the British people. A foreign government could never be persuaded to follow such policies as would benefit the ruled if these clashed with the exigencies of administration or vested interests of the ruling race. The moderates failed to examine the Raj as essentially an imperial system materially injurious to the colony. Moreover, they did not assign any role to the masses. Their incontrovertible arguments lacked the sanction which support of the man on the street imparts to a cause. They earnestly criticized government policies and then tamely accepted government decisions. It was only in 1919, in case of the Rowlatt Bills, that the Government had to face mounting opposition to a legislative proposal outside the Legislature. But even in this case the moderates hardly played any role in organizing it.

It should be noted that in this respect the moderates suffered from the same limitations which characterized similar elite groups in other countries during the pre First World War period. They underestimated the emotional factor in politics and assumed that all questions could be settled through rational discussion. The World in which these assumptions operated disappeared during the First World War. After the failure of the moderates to make the Government withdraw the main Rowlatt Bill, politics were never the business of a few. Thereafter the moderates and their style were on the retreat although the members of this Legislative Council, with one or two exceptions, became liberals later and did not join Gandhi's Non Co operation Movement. In the age of Gandhian politics, they were to play a decreasingly important role in Indian politics.

Nevertheless, their work has a particular relevance in the history of the national movement and the evolution of parliamentary institutions in India. The debates demonstrated that

the policies pursued by the imperialist rulers could not have parallels in the policies adopted by self-governing countries, that an alien government could not be guided solely by the interests of the ruled and that the inadequacies of financial, economic, educational, administrative and all other policies were not results of well-intentioned mistakes but concomitants of foreign rule. The contribution of the moderates lay in rising above the specificity of each grievance and relating it to the alien nature of British rule. The role of the non-official element in the legislatures has been compared to the role of opposition in other legislatures, that is, that of ventilating the grievances of the people and of acting as a check on corrupt and defective administration. But the moderate leaders in the Legislature performed a more important task—that of exposing the real hues of the imperial government.

Their real long term achievement lay in braving each failure, in strengthening and popularizing the nationalist ideology and in thus unwittingly strengthening the anti-imperialist front. The relevance of their work may be summed up in the words of R.C. Dutt penned much before the Morley-Minto Reforms were thought of:

You have performed a noble and a patriotic duty...and a grateful country will not forget your services. You have lost all along the line, as you yourself put it, but there are defeats which are more brilliant and more honourable than victories—and the fight that you have made during the last and worst years of a heartless and ungenerous imperialism will be historic and will never be forgotten by our countrymen..... A nation becoming more and more conscious of its just rights and the strength of its endeavours cannot be repressed.²¹

The non-official members also gave an excellent account of themselves as legislators and demonstrated that they were second to none in discharging the duties assigned to them. Assessing the personnel of the Imperial Legislative Council, an

²¹Cited in Nanda, *Gokhale: The Indian Moderates and the Raj* (London, 1977), pp. 185-6.

official report mentioned 'The majority of those who have come to the headquarters of the Government as elected members of the Imperial Legislative Council have been men who from their intellectual calibre and their moral earnestness, would have done credit to any country'²² It is true that the kind of methods that these moderates adopted could not have led to political independence. But the satisfactory working of parliamentary form of government of India during the past decades owes not a little to their unshakable faith in the power of argument, their remarkable patience, hard work and grace with which they accepted defeat after defeat with a firm faith that the regeneration of the people could come only when there was a Government for the Indians and their work in the legislature proved that only a Government of the Indians could be a Government for them.

²²*India in 1920* (Calcutta, 1921), p. 205

APPENDIX I

NON-OFFICIAL MEMBERS OF THE IMPERIAL LEGISLATURE

Members Sent by Non- Officia, Members of Provincial Legislative Councils:	1910	1913	1917	Remarks
1. Madras	Nawab Saiyid Muham- mad Sahib Bahadur	Contd.	Rao Bahadur B. Narsimhewara Sarma Garu	
-do-	Nyapathi Subba Rao Pantulu Garu	Chakravarti raghavachariar	Vija- V.S. Srinivasa Shastri	
3 Bombay	Gopal Krishna Gokhale, C.I.E.	contd.	Dinshaw Eduljee Wacha	
4 do-	Vithaldas Damodar Thackersey, Kt.	Sir Ibrahim Rahim- toola, Kt., C.I.E.	contd*	*Succeeded in 1918 by Vithalbhai Jhaverbhai Patel

	1910	1913	1917	Remarks
5 Bengal	Bhupendranath Basu	Surendranath Banerjee	B Basu*	*Succeeded in 1917 by Banerjee
6 -do-	Sachchidananda Sinha	Ranjit Sinha, Raja of Nashipur	Sita Nath Ray Bahadur	*Succeeded in 1920 by Sarbadhikari
7 The United Provinces	Madan Mohan Malaviya	contd	contd *	*Resigned in 1919
8 -do-	Abdul Majid	Rai Sri Ram Bahadur, CIE	Dr Tej Bahadur Sapru	
9 Punjab	Sardar Pratap Singh,* CST	Sardar Daljeet Singh*	Sunder Singh Majithia	*Both Succeeded by Mian Muhammad Shafi in 1911 and 1915 respectively
10 Eastern Bengal and Assam (After 1912, Bihar and Orissa)	Maulvi Abdul Karim Abu Ahmed Gheznawi	Madhu Sudan Das, CIE	Rao Bahadur Krishna Sahay	
11 The central Provinces	MB Dadabhoy	Rao Bahadur VR Pandit	MB Dadabhoy CIE	Succeeded by Kharde in 1913
12 Burma	Mfaung Bah Too, CIE	Maung Mye	Maung Bah Too	
13 Assam		Srijut Ghanashyam Das Barua	Kamini Kumar Chanda	

LANDHOLDERS' REPRESENTATIVES:

	1910	1913	1917	Remarks
14 Madras	Raja Vairicherla Virabhadra, Zamindar of Kurupam	Rama Rayanigar Guru*	K.V. Rangaswamy Ayyangar	*Succeeded in 1914 by Rama Raya Venkar- taranga Bahadur of Panagallu
15 Bombay	Mir Allah Baksh Khan*	Rustomji Jehangirji Vakil	Khan Bahadur Saiyed Allahando Shah	*Succeeded in 1911 by G.M. Bhurgri
16 Bengal	Sir Bijya Chandra Mahtab, K.C.I.E., Maharajadhiraje Baha- dur of Burdwan	Maharaj Manindra Chandra Nandi, K.C. I.E., Raja of Kasim- bazar	contd.	
17 United Provinces	Raja Pratap Bahadur Singh, C.I.E., of Partabgarh	Raja Kushalpal Singh, M.A.L.L.B., of Kotla	Raja Sir Rampal Singh K.C.I.E., of Korri Sadauli.	
18 Eastern Bengal and Assam (Since 1912 Bihar and Orissa)	Raja Pramada Nath Ray of Dighaptia	Maharaj Kumar Gopal Saran Narain Singh of Tikari	Raja Rajendra Nara- yan Bhango Deo of Kanika	
19 The Central Pro- vinces	G.M. Chitnavis, C.I.E.	contd.	Rao Bahadur Bishan Dutt Shukul	

REPRESENTATIVES OF MUSLIMS

	1910	1913	1917	Remarks
20 Madras	Gulam Muhammad Ali, K C I E, Prince of Arcot	Khan Bahadur Mir Asad Ali Khan	contd	
21 Bombay	Mahomed Ali Jinnah	Fazulbhoys Currimbhoy Ebrahim	Mahomed Ali Jinnah	
22 Bengal	Mazharul Haque	Abdul Karim Abu Ahmed Ghaznavi	Maulvi Abdur Rahim	
23 United Provinces	Raja Sir Muhammad Ali Muhammad Ali Khan, K C E E, Raja of Mahmudabad	contd	contd	
24 Eastern Bengal and Assam (Since 1912 Bihar and Orissa)	Maulvi Syed Shamsul Huda	Qunrul Huda	Mazharul Haque	
25 Bengal Chamber of Commerce	C W N Graham	A M Monteah	E E. Bray*	*Succeeded by W A Ironside in 1918

	1910	1913	1917	Remarks
26 Bombay Chamber of Commerce	R.C. Monteah	C.B. Armstrong	J.S.W. Milne*	*Succeeded by Malcolm N. Hogg in 1918
27 Member elected by the Muslim Landholders of the United Provinces of Bengal		Raja Saiyid Abu Jafar of Pirpur	Khan Bahadur Nawab Saiyad Nawab Ali Chaudhri	

NOMINATED MEMBERS:

1 Indian Commercial Community	Sir Sasson David	Sita Nath Ray- Bhabur	Fazulbhoy Currimbhoy Ebrahiml Kt.
2 Landholders of the Punjab	Malik Umar Hyat Khan, C.I.E.	Raja Jaichanda of Lambagaon	Zulfiqar Ali Khan, C.S.I.
3 Muhammadans of the Punjab	Zulfiqar Ali Khan	Malik Umar Hayat, Khan, C.S.I.	Mian Muhammad Shafi, C.I.E.
4 Others	W.C. Madge Kunwar Sir Ranjit Singh, K.C. I.E. R.N. Mudholkar	E.E. Meugens Sir Ranbir Singh	Captain Ajab Khan Sardar Bahadur Sir Prabha Shankar Pattani Chitnavis

APPENDIX II

BIOGRAPHICAL NOTES

Abdul Majid, Nawab Maulvi (1859-1924) Lawyer and U P political leader, the most influential zamindar of East U P, Trustee M A O College Aligarh, 1886, President of U P Muslim League, 1909 and of the All India Muslim League, 1910, elected unopposed to the U P, Legislative Council, 1909, represented the general seat from U P on the Indian Legislature, 1910-2, member of the committee to discuss Congress-League Scheme, 1916, re-elected to U P Legislative Council 1916, member of the Council of State, 1920, supported the British consistently

Abdur Rahim, Sir (1854-1926) member of the Indian National Congress, represented Muslims of Bengal on the Indian Legislature, 1916-20, joined the Non co operation Movement

Barua, Ghanashyam Das (1867-1923) Assam political leader in the moderate tradition, planter and a successful lawyer, elected to Assam Legislative Council, 1913, represented it on the Indian Legislature, 1913-16, appointed Vice President of the Assam Legislative Council, Sep 1919, appointed minister in Assam, 1920

Banerjea, Surendranath (1848-1925) journalist, teacher and a moderate Congress leader, founded the Indian Association, 1876, editor, *The Bengalee*, President of the Congress, 1895 and 1902, played a leading part in the agitation against the partition of Bengal in 1905 and was acclaimed as 'King of Bengal' by the Extremists, in 1908 he accepted the

Morley-Minto reforms; represented Bengal on the Indian Legislature, 1912-6 and 1918-20; left Congress in 1918 following differences over the Montagu-Chelmsford Reforms; Minister in the Bengal Government, 1921-23; defeated in the elections to the Bengal Legislative Council, 1923.

Basu, Bhupendranath, (1859-1925) ; a moderate Congress leader; son of a clerk; member of the Bengal Legislative Council, 1904-10 ; represented it on the Indian Legislature, 1910-12; president of the Congress, 1914; Under-Secretary in the Council of the Secretary of State, 1917; member of the Bengal Legislative Council, 1923; Chancellor, Calcutta University, 1924.

Bhurgri, G.M. (1878-1924) : barrister, politician and a rich zamindar ; member of the Bombay Legislative Council, 1910-19; represented landholders of Bombay on the Indian Legislature, 1911-12; General Secretary of the Indian National Congress, 1917; President, Bombay session of the Khilafat Committee, 1920; President of the Muslim League, 1923; member, Legislative Assembly, 1923-24.

Burdwan, Sir Bijaya Chandra Mahtab, K.C.I.E., Maharajadhiraja Bahadur of (1881-1934) : knighted 1909 ; represented landholders of Bengal on the Indian Legislature, 1910-2; member, Indian Taxation Enquiry Committee, 1924-5; delegate to the Imperial Conference, London, 1926.

Chanda, Kamini Kumar (1862-1936) : lawyer and small landholder; brought up by a paternal uncle who was a peshkar; associated with the Congress since 1886; member of the Assam Legislative Council, 1913-16; elected member of the Indian Legislature, 1916-20: known as uncrowned king of Assam; did not accept any title from the Government; did not join the non-co-operation movement.

Chaudhuri, Nawab Khan Bahadur Syed Nawab Ali : a big landholder, represented Muslim landholders of Bengal on the Indian Legislature, 1916-20 ; had no dealings with nationalists.

Cbitnis, Gangadharrao Madhwarao (1863-1929) zamindar a businessman and politician, member of Nagpur municipality, 1896-1918, active member of the Congress and was invited to become its president in 1900, represented C P on Indian Legislature, 1893-5, 1898-99, 1907-1916 and 1918-20

Currimbhoy, Fazulbhoy (b 1872) merchant and mill owner of Bombay, trustee of Aligarh College and a member of the Muslim University Foundation Committee, Vice President of the Bank of Bombay, represented Muslims of Bombay on the Indian Legislature, 1913-16 and Indian Commercial community, 1916-20

Dadabhoy M.B. lawyer, landholder and businessman, representative of Central Provinces on the Indian legislature, 1910-12 and 1916-18

Das, Madhusudan (1848-1934) lawyer, industrialist and oriya politician, son of a Mukhtiar, edited a weekly paper *The oriya*, member of the Congress until 1911, represented Bihar and Orissa on the Indian Legislature, 1912-16, became a minister under Dyarchy, became known as 'the architect of Modern Orissa'

Ghuznavi, Haji, Sir Abdel Karim Abu Ahmed Khan (1872-1939) a big landholder and politician of Eastern Bengal, supported the Government during the agitation following the partition of Bengal in 1905, returned by the Legislative Council of East Bengal and Assam to the Indian Legislature, 1910-12 and Muslims of Bengal, 1912-16, minister in Bengal, 1924-25, was closely associated with Muslim educational reforms movement

Gokhale, Gopal Krishna (1866-1915) teacher, moderate leader of the Congress, elected to the Bombay Legislative Council, 1899, represented Bombay on the Indian Legislative Council, 1901-1915, member, Islington Commission, founded Servant of India Society, 1905, president of Congress, 1905, played a prominent role in deliberations preceding the inauguration of Morley-Minto reforms, made his mark as a parha-

mentarian; often described as 'the leader of the opposition' and as 'the Gladstone of India.'

Haque, Mazharul (1866-1930): Bihar politician and barrister; one of the founders of the Muslim League; a supporter of S.A. Imam; chairman of the Reception Committee of the Congress, 1912; President of the Muslim League, 1915; worked for the accord between the Congress and the Muslim League in 1916; represented Muslims of Bengal on the Indian Legislature, 1910-12 and Bihar and Orissa, 1916-20; became a non-co-operator on Gandhi's call in 1920 and gave up his lucrative practice; launched an English weekly *The motherland*, 1921; defeated in the election to the Bihar Legislative Assembly in 1926; retired from public life, 1927.

Huda, Maulvi Syed Shamsul: lawyer and big zamindar, represented Muslims of Eastern Bengal and Assam on the Indian Legislature, 1910-2; appointed to Bengal Executive Council, acted as spokesman of Muslims.

Imam, Sir Syed Ali (1869-1932): lawyer and nationalist leader; member of Patna district and municipal boards, 1903; elected trustee of Aligarh, 1909; President of the Amritsar session of the Muslim League in 1908; the leader of League's negotiations with the Government of India; member, Viceroy's Executive Council, 1910-5; President of Nizam's Executive Council, 1919-22; represented India at the League of Nations; President of All India Nationalist Muslim Party, 1931; though earlier he favoured separate electorates for Muslims, he finally became convinced of the dangers of such an arrangement to both Indian nationalism and Muslim interests.

Iyengar, A. Rangaswami (1877-1934): small landowner, lawyer and politician; Secretary of Home Rule League of Mrs. A. Basant for three years; represented landholders of Madras on the Indian Legislature, 1916-20; did not join the non-co-operation movement.

Jaffer, Sir Ibrahim Haroon (1881-1930): businessman and politician, member Poona municipality; member, Bombay

Legislative Council, 1916 9, member, Indian Legislature, 1919-20, Member, Reforms Advisory Committee, 1920, Member, Council of State, 1921-25

Jinnah, Mohamed Ali (1876 1948) lawyer and political leader, for sometime private secretary to Dadabhoy Naoroji in 1906, member of the Indian National Congress, 1906 1920, voiced his opposition to separate electorates though ironically he represented Muslims of Bombay on the Indian Legislature, 1910 12 and 1916 20, Member of Legislative Assembly, 1923, 1926 and 1934, made his mark as an eloquent and courageous parliamentarian, only member to resign unhesitatingly against the passing of the Rowlatt Act, 1919, President of the Muslim League, 1916, 1920, 1935 1948, Governor General of Pakistan, 1947 8

Kassimbazar, Maharaja Manindra Chandra Nandi, K.C. I.E., Raja of played prominent role in the early phase of the swadeshi movement in Bengal 1905, but later lost enthusiasm, represented landholders of Bengal on Indian Legislature, 1913 1920, had the reputation of a title hunting opportunist

Khan, Malik Umar Hyat nominated to Indian Legislature as representative of landholders of Punjab from 1910 12 and Muslims of Punjab from 1913 16, in 1916 neither any of the Muslim associations nor any of the Chief's associations nominated him yesman of the British, M O'Dwyer described him as a useful and reliable member', member, Esher Committee

Kharde Ganesh Shrikrishna (1854 1938) son of a tehsildar, lawyer and an extremist, follower of Tilak, chairman of the reception committee of the Amraoti session of the Congress in 1897, pleaded for Tilak before the House of Lords (1908 10) represented the 'general' constituency from Central Provinces on the Indian Legislature, 1918 20, did not join the Non co operation movement, elected to the Legislative Assembly, 1920

Mahmudabad, Sir Muhammad Ali Muhammad Khan, Raja of (1879-1931): zamindar, moderate nationalist leader; an active member of both the Congress and the Muslim League; member U.P. Legislative Council, 1908-9; Member of the Indian Legislature 1907-9 and again represented the Muslims of U.P. continuously from 1910 to 1920; played a leading role in the Kanpur mosque agitation and the Muslim University movement; also patronized the Homo Rule movement and the Hindu University movement; president, Muslim League, 1915, 1919; Member U.P. Executive Council, 1920-25; Vice-Chancellor, Aligarh Muslim University, 1920-23; encouraged the boycott of Simon Commission, 1927; supported the Nehru Report, 1928.

Majithia, Sardar Sunder Singh (1872-1919): landholder and a Sikh leader; Honorary Secretary, Chief Khalsa Diwan; represented the 'general' constituency of Punjab on Indian Legislature, 1916-9; appointed to Viceroy's Executive Council, 1919; supporter of the British, wanted separate representation of Sikhs.

Malaviya Madan Mohan (1861-1946): son of a Hindu priest; journalist and political worker; edited *The Hindustan*, 1887-9, *The Indian Union*, 1889-92, *The Abhyudaya*, 1907-9; Member of U.P. Legislative Council, 1902-12; elected to represent the 'general' constituency from U.P. on Indian Legislature in all the three elections held under the Act of 1909, resigned in 1919 as a protest against the passing of the Rowlatt Act; Member of the Congress from 1886 till his death; Congress President, 1909 and 1918; also president-designate of the two banned Congress sessions of 1932 and 1933; founded Benaras Hindu University, 1916; President, All-India Hindu Mahasabha, 1923-25.

Mohammed Bahadur, Nawab Syed (18 - 1919): landholder and moderate nationalist leader; sheriff of Madras, 1896; member Madras Legislative Council 1902, Indian Legislature, 1903-4, 1910-12, 1913-16; only person in the Congress who had the triple distinction of being the chairman of the reception

committee, 1903, president of the Karachi session, 1913 and its general secretary, 1914-7

Mudholkar, Rao Bahadur Raghunath Narsimha (1857-1921) social and political worker, son of a record keeper in a district court, president of the Bankipore session of the Congress, 1912, nominated member of the Indian Legislature, 1910-12

Nair, C Sankaran (1857-1934) lawyer and political worker, advocate-general of Madras, 1907, President of the Congress, 1897, Education Member in Viceroy's Executive Council, 1915-9, resigned by way of protest against Jallianwala tragedy, left Congress in 1922 because of disapproval of Gandhi's programme

Patel Vithalbhai Jhaverbhai (1873-1933) barrister, member Baroda municipality, member of the Bombay Legislative Council, 1909-12, elected to the Indian Legislature in 1918

Rahimtoola, Sir Ibrahim (1862-1942) middle class Khoja Muslim family, President Bombay Municipal Corporation, 1899, very active member of both the Indian National Congress and the Muslim League, President of the Muslim League, 1912, elected to 'general' seat from Bombay in 1912 and 1916, First Indian Chairman of the Indian Fiscal Commission

Sahay, Rao Bahadur Krishna (1886-1921) landholder and moderate politician, very active member of the Bihar Landholders' organization and Indian National Congress, represented the 'general' constituency from Bihar and Orissa in Indian Legislature, 1916-20, went to U.K. as member of the Moderate delegation on constitutional reforms, 1919, became Governor of Bihar and Orissa

Sapru, Sir Tej Bahadur (1875-1949) lawyer and politician, represented the 'general' seat from U.P. on Indian Legislature, 1916-20, signatory to the memorandum of 19 members to the Viceroy, one of the first to join Besant's Home Rule League,

did not approve of Non-co-operation movement, remained a liberal.

Sarma, Rao Bahadur Narsimheshwara (1867-1932) : lawyer chairman of Visakhapatam Municipality, 1905; elected to Madras Legislative Council, 1906; represented 'general' constituency from Madras on Indian Legislature, 1916-1920; known as seasoned spokesman of official point of view; in 1919, in a fit of impulse he resigned from the Indian Legislature, but later he withdrew his resignation; became a member of Viceroy's Executive Council, 1920.

Shafi, Mian Muhammad (1869-1932) : landholder and barrister; wished to help organise Muslims in support of British rule; member of Muslim deputation to Minto, 1906; founder of the Punjab Muslim Association which merged in 1907 into the All-India Muslim League; elected in by-election to Indian Legislature in 1911 and 1915; nominated to represent the Punjab Muslims on Indian Legislature, 1916-19; President of the Muslim League, 1913 and 1927; Education Member of Viceroy's Executive Council, 1919-22; knighted, 1922; Law Member of the Council, 1923-24.

Shastri, V.S. Srinivasa (1869-1946) : son of a Hindu priest, teacher and political worker; Secretary of the Madras Congress, 1908; succeeded Gokhale as President of the Servants of India Society, 1915; represented 'general' constituency of Madras on the Indian Legislature, 1916-20; became known as 'silver-tongued' speaker; co-operated with Montagu in finalizing the Government of India Act of 1919; opposed Non-Co-operation movement; attended the League of Nations as a member of the Indian delegation, 1912; became a member of the Privy Council; Vice-Chancellor, Annamalai University.

Shukla, Pandit Bishnu Dutt (1877-1921) : landholder; served as a recruiting officer during the First World War; represented the landholders of C.P. on the Indian Legislature, 1916-20; joined Congress in 1920 and played an active part in the famous Nagpur session of the Congress in 1920.

Sinha, Sacchidanand (1871-1950) barrister, journalist and political worker, joined Anjuman-i-Islamia in London, represented the 'general' constituency of Bengal in Indian Legislature, 1910-12, Secretary of reception committee of Bankipore session of the Congress, 1912, worked for the creation of a separate state of Bihar, became President of the Legislative Council of Bihar and Orissa

Sinha, Satyendra Prasad (1864-1928) barrister, Law Member in Viceroy's Executive Council 1909-10, President of the Congress, 1915, Permanent Under Secretary of State for India, 1919, Governor of Bihar and Orissa, 1920

Subba Rao, Nyapaty (1864-1941) son of a government employee, represented the 'general' constituency of Madras on Indian Legislature, 1910-12, Secretary of the Congress, 1914, founded *The Hindu*

Thackersey, Sir Vithaldas Damodar (1873-1921) business man and educationist, represented the 'general' constituency of Bombay on Indian Legislature, 1913-16 and 1916-20, *The Mahratta* of 5 Jan. 1917 described him as 'a reliable and honest exponent of public views'

Vijayaraghavachari, Chakravarti (1852-1943) lawyer, attended the 1885 Congress, represented 'general' constituency of Madras on Indian Legislature, 1913-16, presided over the 1920 Congress session, but could not accept the plan of Non-cooperation, opposed to the participation in the Round Table Conferences

Wacha, Sir Dinshaw Edulji (1844-1936) businessman and political worker, managing agent of Morarji Gokuldas and Sholapur mills Sec. Bombay Presidency Association, 1885-1915, President of the Congress 1901, joint secretary of the Congress 1908-13, member of the Bombay Corporation for thirty one years, represented 'general' constituency of Bombay on the Indian Legislature, 1916-20, left the Congress and joined National Liberation Federation, 1918, Governor of Imperial Bank of India, 1920, a prolific writer

APPENDIX III

WORKING OF INDIAN LEGISLATURE 1910-1920 AT A GLANCE

<i>Years</i>	<i>Number of Meetings</i>	<i>Number of Acts passed</i>	<i>Number of questions answered</i>	<i>Number of resolutions moved</i>
1910	15	17	122	5
1911	16	19	155	6
1912	14	13	192	9
1913	11	8	179	17
1914	20	17	238	9
1915	13	16	183	15
1916	14	15	178	16
1917	23	26	292	29
1918	27	23	297	37
1919	27	27	397	21
1920	27	49	—	12

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Crewe Papers

India Office Library

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George Rivers Lowndes Papers	I O Mss Eur C 224
Hailey Papers	I O Mss Eur E 220
Lee Warner Papers	I O Mss Eur F 92

National Archives of India

The records of the Government of India in the Legislative, Home (Public, Political, Judicial, Establishments and Medical), Education, Finance Commerce and Industries, Revenue and Agriculture and Reforms Departments

Papers relating to each of the Acts passed in the Legislature during 1910 1920

Selections from Despatches to several Governments in India by Secretary of State

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